Urgent Reform: Abolish the Rhode Island Family Court

Author: Patrice Livingston

Creation Date and Time: October 3, 2011 10:32 PM

Findings/Activities in RI and Around the Nation

Performance & Accountability Issues

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Performance & Accountability Issues

Executive Summary on the Abolish Family Court Collection

pvl70: August 9, 2011 10:02 PM, Posted and Edited by Patrice Livingston

The 2010 Annual Report on Advancing Solutions for Tomorrow's Legal System is usually included before or after this collection. These readings are intended to prompt the RI General Assembly to really try to understand the experience of people in the courts. The IAALS seeks to apply, study, and enforce rules of civil procedure, and it also seeks to encourage pilot reform projects. Rhode Island is in need of expedited judicial reform. Our state project brings together the intersecting contexts of women's justice, human rights for children, citizen protection from coercive control by either domestic partners or the courts, and a serious call for the injection of ethics into the legal and mental health professions.

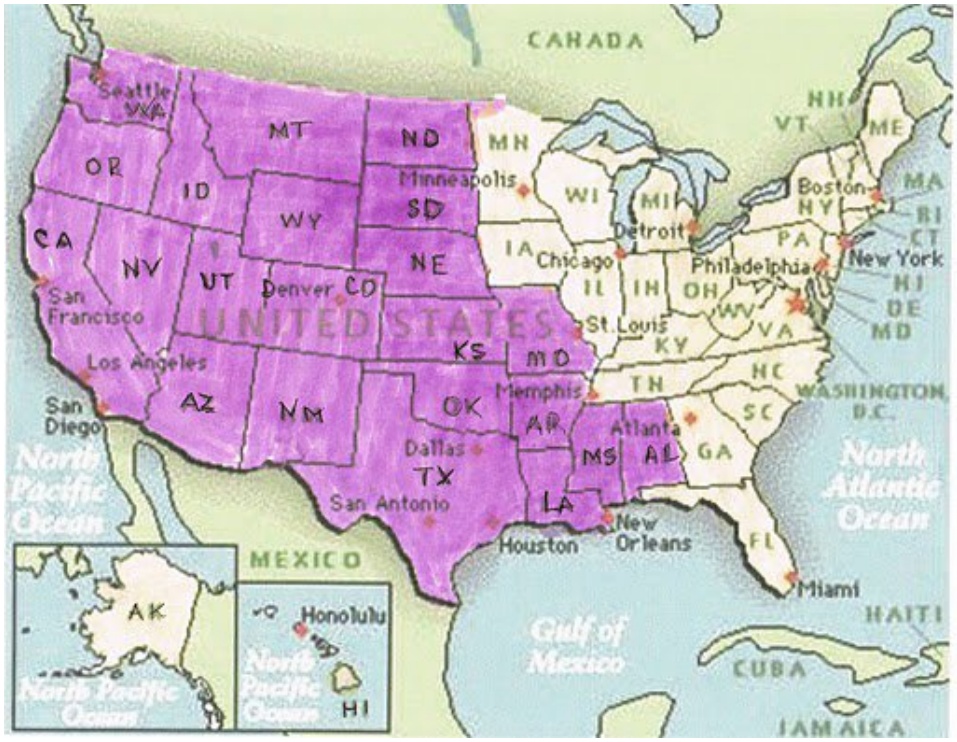
This report motivates a hard look at the fiscal and funding concerns which have led to such a deterioration of the public trust in the judiciary. The Rhode Island appropriations bill needs a a robust analysis done against the backdrop of both the TANF report to Congress and the $80 Billion DHHS machinery outlined. These programs are tied to a poorly performing, rights-violating set of fragmented and specialty courts which harm people economically and emotionally. The lawless family court does not follow best practices in social policy, human health, civil rights and human rights, or economic prudence and prosperity for litigants. Instead, it is replete with collateral mandates that cause people to suffer serious psychological distress (SPD) as outlined in the RI Health report referenced in the chapter on Questionable practices in Custody Litigation. We are able to annotate widespread abuse of due process, invalidation of children and emotional harm to families and communities.

Judicial accountability will come about with real reform driven by the General Assembly and when disciplinary or other actions compel it. We need to streamline the processes in our civil and criminal justice systems. Rhode Island can save time and expense, and skip a protracted audit process as we understand that we are very likely to find similar problems as were found by California in their audits. That report is readily available and points out many performance issues. They did the work for us. Financial issues are at crises levels at both the state and national levels. The General Assembly has a daunting task to fully analyze how, and on what, we taxpayers are truly spending our money on. More importantly, we need to identify where it goes and if its truly helping. The creation of an office of the Inspector General in tandem with strong penalties for corruption of the public trust, would help tighten up fiscal and performance problems when good workers and honest citizens have a voice and protection. That is one way to help rebuild Rhode Island. If we abolish the Family Court and the DCYF, we have a chance to restore families and help one another. We need to remove old infrastructure which no longer serves us, and which no longer works safely, before it crumbles down on top of us.

Brick By Brick - With Our Bare Hands - We Will Take the Family Court Down.

health46: September 14, 2011 4:32 PM, Posted by Patrice Livingston

Are you a protective parent struggling to protect your child/ren in our nation's family courts? Did the family court take or threaten to take your child/ren from you after you reported abuse? Send a confidential email to juliafletcher714@gmail.com. Tell us which family court is not protecting your children. One mom's coordinating purple states, one mom's coordinating white states. It's time to find every protective parent going through this nightmare in each state and advocate effectively for our children and ourselves.



Attachments:

1. discovery-of-empowerment-map-of-u-s-a.jpg (65.1 KB)

Soviet Style US Courts, along with Police, are Revenue Collection Systems

rifoja40: September 14, 2011 2:11 PM, Posted and Edited by Patrice Livingston

If any average citizen spends any amount of time in any court in the US, some things become very apparent. Courts, along with Police, Department of Children and Families, seem to be run by a lawyer mafia to enrich lawyers and collect revenue, fine, and confiscate assets and cash for the government. Courts are also tools for abuse and retaliation. If you have 20 million dollars and are getting divorced, lawyers want to put a hold on 20 million dollars so if the divorce costs 20 million dollars, lawyers get their fees. Check out the Tauck v. Tauck case.

There may have been no bankster scandals, need for a bailout, or failing of economies worldwide if Los Angeles Judges weren't taking bribes to cover up bankster fraud. Attorney Richard I. Fine was jailed for contempt so judges could cover up their crimes. Should judges and lawyers be able to dip into a child's trust fund for programs and for the legal process? Should citizens who lodge complaints against judges and the legal system, filing civil lawsuits for damages, end up in prison, jailed for contempt of court and for other charges? Michael Nowacki is just another victim of an abusive system. Point out the obvious, end up in jail.

The below video is 2 hours long, but all the issues most relevant to proving the US Court System is abusive, too expensive, and out of control is discussed in the video below. Every state and federal official should view the video below, and then should be asked if they are for the tyranny of lawyers and to rip off citizens to fuel a fat, inefficient, whore of a government, or for we the people. Are we getting representation for our taxation?

This writer told his Stafford Springs, Connecticut, elected officials that he intended on suing the State Police for refusing to protect and serve, and wanted to have a judge removed for bias in civil cases. I then received a year in prison on ridiculous charges. Connecticut is highlighted for their judicial misconduct, but it is a national problem.

FIRST UP: Ed & Leslie discuss in an impromptu manner the frauds that go on in Divorce Court which destroy children and hands much of the estate over to the lawyers and System. The Conn. Bar Association is accused of secretly funding the particularily destructive GAL system, or Guardian Ad Litem. A conspiracy exist, mind you showing a definite Appearance of Impropriety, where rogue judges, corrupt lawyers, and even the Bar Associations themselves scheme to rape the family assets with unnecessary actions that cost families against their wills, and rip children apart between both parents.

SECOND UP: at 36 mins.... Citizen Michael Nowacki is exposing how the Conn. Judicial Branch has been illegally engaging law-making practices:

On March 18, 2011, the Connecticut Ethics Commission undertook investigation into Chief Family Judge Lynda Munro's alleged unlawful solicitation for "sponsorship" from members of the Connecticut Bar Association for mandated family court directed training for Guardian Ad Litem G.A.L.s held at Quinnipiac University. They dismissed it. Audience is asked to respond whether Munro's solicitation of Bar funding for the GAL Program constitutes "making law from her secretive back chambers accountable by some state enforcement agency?

The FOIA Commission claims it has no jurisdiction, not an Administrative Issue as defined by Conn. Supreme Court. (1:06:00 & 1:41:00) The hearing officer was referring to the 2006 decision, Clerk of GA 7 v. FOIC. That decision expanded the definition of "adjudicative" records to include simple docket sheet data not subject to FOIA. Clerk has nothing to do with the

Nowacki case because Nowacki is not asking for anything to do with an individual case and privacy issues. He's asking for information on Public Hearings. The Law Tribune writes http://www.ctfog.org/CCFOI/subsite/LTValvoArticle.htm : "Three of the seven justices in Clerk favored test based on the 1988 case of Bar Examining Commission v. FOIC. Notes: Quinn: March 3, 2008: We do believe that administrative function should be defined as including the management of the internal institutional machinery of the court system, accounting, budgeting, personnel, facilities, physical operations, scheduling, record keeping, and docketing." That statement is answer to Perpetua's J. Quinn Q at 1:21:45.

In the 1983 case of Rules Committee v. FOIC, Chief Justice Ellen Ash Peters noted that the state FOI Act applies only to the Judicial Branch "administrative records" and not to "adjudicative records" that might interfere with the courts' critical function of deciding individual cases. Peters narrowly defined "administrative" matters as the "budget, personnel, facilities and physical operations of the courts."

At the very least, it can be claimed Nowacki's failed FOIA to J. Munro and others about the GAL program and rule-making procedure was discovering the following: to know about records dealing with GAL budget or sponsorship, GAL personnel and even trainees, facilities at Quinnipiac and physical operations of the courts concerning the GAL. AMC "commando programs". After all, those Public Agency programs are physical operations that accommodate the efficient operations of the court, are administrative; and Nowacki is not seeking "adjudicative records" that might interfere with deciding any individual case.

Rules Committee v. FOIC is not so narrow that it limits the breadth of which administrative functions can still be carried out despite Clerk, thus is still under FOIA juris and oversight. The hearing officer, Mr. Perpetua, @ 1:51:30 is wrong to have gone to such a narrow definition when "internal machinery" is the mantra, and when Nowacki points out the Superior Court and Appellate Court, and Chief Adm. J. Quinn acknowledges their rule-making falls as an administrative act. And when the Supreme Ct. NEVER limited Administrative tasks past docket and case sealing. Administrative function should be defined as including the management of the internal institutional machinery of the court system, which must include activity related to Rule-making. Judge Lynda B. Munro spearheaded a program aimed at influencing private law firms' hiring and employment practices. This is highly controversial behavior showing impropriety and warranting investigation of a conflict of interest, ethics, and even criminal allegations.

When a judge creates and manages, schedules,and coordinates a program like the GAL (Guardian Ad Litem) or AMC (Atty for the Minor Child) training sessions, a program under great social controversy whether or not it's actually destructive to families, promoted independently by this J. Munro, ... is that or is that not an Administrative function subject to FOIA Commission jurisdiction?

Steven G. Erickson is a freelance cameraman, blogger, photographer, documentary producer, screenwriter, sometimes journalist, and can and will travel anywhere if the terms are right. His objective is to reform America's courts, creating a "People's (more...)

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this reference pulled 14 SEP 2011 from :

http://www.opednews.com/Diary/Soviet-Style-US-Courts-al-by-Steven-G-Erickson-110420-523.html

George Orwell 1984 - Quote Applies to Today

policy42: September 18, 2011 6:08 PM, Posted by Patrice Livingston

Direct Quote from the Book 1984 by George Orwell -

Part 3, Chapter 3

note: George Orwell worked for the British Imperial Government as a police officer in India, then he worked for the Communists in the Spanish Civil War; and then he worked in propaganda during WWII at BBC. He wrote and edited essays that described that the fact that this is what he believed they were trying to set up and that they were playing the left and right against each other as all staged. And the government was staging terror attacks to bring in their world government. He died about a year after 1984 was published. He was a British spy from a good family and so he breaks down how the globalists were asinine on purpose just to break the will of the people and to condition us to accept anything. Hilary Clinton says this is her favorite book. Obama says his favorite book is Brave, New World. These are bibles of what they are going to do to us - and Huxley says its a mix of the two, what they are doing to us.

What are the stars?' said O'Brien indifferently. 'They are bits of fire a few kilometres away. We could reach them if we wanted to. Or we could blot them out. The earth is the centre of the universe. The sun and the stars go round it.'

Winston made another convulsive movement. This time he did not say anything. O'Brien continued as though answering a spoken objection:

'For certain purposes, of course, that is not true. When we navigate the ocean, or when we predict an eclipse, we often find it convenient to assume that the earth goes round the sun and that the stars are millions upon millions of kilometres away. But what of it? Do you suppose it is beyond us to produce a dual system of astronomy? The stars can be near or distant, according as we need them. Do you suppose our mathematicians are unequal to that? Have you forgotten doublethink?'

Winston shrank back upon the bed. Whatever he said, the swift answer crushed him like a bludgeon. And yet he knew, he knew, that he was in the right. The belief that nothing exists outside your own mind -- surely there must be some way of demonstrating that it was false? Had it not been exposed long ago as a fallacy? There was even a name for it, which he had forgotten. A faint smile twitched the corners of O'Brien's mouth as he looked down at him.

'I told you, Winston,' he said, 'that metaphysics is not your strong point. The word you are trying to think of is solipsism. But you are mistaken. This is not solipsism. Collective solipsism, if you like. But that is a different thing: in fact, the opposite thing. All this is a digression,' he added in a different tone. 'The real power, the power we have to fight for night and day, is not power over things, but over men.' He paused, and for a moment assumed again his air of a schoolmaster questioning a promising pupil: 'How does one man assert his power over another, Winston?'

Winston thought. 'By making him suffer,' he said.

'Exactly. By making him suffer. Obedience is not enough. Unless he is suffering, how can you be sure that he is obeying your will and not his own? Power is in inflicting pain and humiliation. Power is in tearing human minds to pieces and putting them together again in new shapes of your own choosing. Do you begin to see, then, what kind of world we are creating? It is the exact opposite of the stupid hedonistic Utopias that the old reformers imagined. A world of fear and treachery is torment, a world of trampling and being trampled upon, a world which will grow not less but more merciless as it refines itself. Progress in our world will be progress towards more pain. The old civilizations claimed that they were founded on love or justice. Ours is founded upon hatred. In our world there will be no emotions except fear, rage, triumph, and self-abasement. Everything else we have shall destroy everything.

Already we are breaking down the habits of thought which have survived from before the Revolution. We have cut the links between child and parent, and between man and man, and between man and woman. No one dares trust a wife or a child or a friend any longer. But in the future there will be no wives and no friends. Children will be taken from their mothers at birth, as one takes eggs from a hen. The sex instinct will be eradicated. Procreation will be an annual formality like the renewal of a ration card. We shall abolish the orgasm. Our neurologists are at work upon it now. There will be no loyalty, except loyalty towards the Party. There will be no love, except the love of Big Brother. There will be no laughter, except the laugh of triumph over a defeated enemy. There will be no art, no literature, no science. When we are omnipotent we shall have no more need of science. There will be no distinction between beauty and ugliness. There will be no curiosity, no enjoyment of the process of life. All competing pleasures will be destroyed. But always -- do not forget this, Winston -- always there will be the intoxication of power, constantly increasing and constantly growing subtler. Always, at every moment, there will be the thrill of victory, the sensation of trampling on an enemy who is helpless. If you want a picture of the future, imagine a boot stamping on a human face -- for ever.'

He paused as though he expected Winston to speak. Winston had tried to shrink back into the surface of the bed again. He could not say anything. His heart seemed to be frozen. O'Brien went on:

'And remember that it is for ever. The face will always be there to be stamped upon. The heretic, the enemy of society, will always be there, so that he can be defeated and humiliated over again. Everything that you have undergone since you have been in our hands -- all that will continue, and worse. The espionage, the betrayals, the arrests, the tortures, the executions, the disappearances will never cease. It will be a world of terror as much as a world of triumph. The more the Party is powerful, the less it will be tolerant: the weaker the opposition, the tighter the despotism. Goldstein and his heresies will live for ever. Every day, at every moment, they will be defeated, discredited, ridiculed, spat upon and yet they will always survive. This drama that I have played out with you during seven years will be played out over and over again generation after generation, always in subtler forms. Always we shall have the heretic here at our mercy, screaming with pain, broken up, contemptible -- and in the end utterly penitent, saved from himself, crawling to our feet of his own accord. That is the world that we are preparing, Winston. A world of victory after victory, triumph after triumph after triumph: an endless pressing, pressing, pressing upon the nerve of power. You are beginning, I can see, to realize what that world will be like. But in the end you will do more than understand it. You will accept it, welcome it, become part of it.'

Why Democracies Fail

legal57: August 31, 2011 11:40 PM, Posted by Patrice Livingston

Why Democracies Fail

A Democracy cannot exist as a permanent form of Government. It can only exist until the voters discover they can vote themselves largess out of the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that Democracy always collapses over a loose fiscal policy, always to be followed by a Dictatorship.

(Written by Professor Alexander Fraser Tyler, nearly two centuries ago while our thirteen original states were still colonies of Great Britain. At the time he was writing of the decline and fall of the Athenian Republic over two thousand years before.)

-Reprinted from the Freeman Magazine

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Democracy:

A government of the masses.

- Authority derived through mass meeting of any other form of “direct” expression.
- Results in mobocracy.
- Attitude toward property is communistic-negating property rights.
- Attitude toward law is that the will of the majority shall regulate. Whether it be based upon deliberation or governed by passion, prejudice, and impulse, without restraint or regard to consequences.
- Results in demagogism, license, agitation, discontent, anarchy.

Republic:

- Authority is derived through the election by the people of public officials best fitted to represent them.
- Attitude toward property is respect for laws and individual rights, and a sensible economic procedure.
- Attitude toward law is the administration of justice in accord with fixed principles and established evidence, with a strict regard to consequences.
- A greater number of citizens and extent of territory may be brough within its compass.
- Avoids the dangerous extreme of either tyranny of mobocracy.

- Results in statesmanship, liberty, reason, justice, contentment, and progress.
- Is the “standard form” of government throughout the world.

A republic is a form of government under a constitution which provides for the election of

1. an executive and;
2. a legislative body, who working together in a representative capacity, have all the power of appointment, all power of legislation, all power to raise revenue and appropriate expenditures, and are required to create
3. a judiciary to pass upon the justice and legality of their governmental acts and to recognize
4. certain inherent individual rights.

Take away any one or more of those four elements and you are drifting into autocracy. Add one or more to those four elements and you are drifting into democracy. – Atwood.

121. Superior to all others.- Autocracy declares the divine right of kings; its authority can not be questioned; its powers are arbitrarily or unjustly administered.

- Democracy is the “direct” rule of the people and has been repeatedly tried without success.
- Our Constitutional fathers, familiar with the strength and weakness of both autocracy and democracy, with fixed principles definitely in mind, defined a representative republican form of government. They “made a very marked distinction between a republic and a democracy *** * *** and said repeatedly and emphatically that they had founded a republic.”

BY ORDER OF THE SECRETARY OF WAR:

C.P. SUMMERALL, *Major General Chief of Staff Official:*

LUTZ WAHL, *Major General, The Adjutant General.*

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Rhode Island Family Court History - An ACT is Needed to Abolish it Now.

policy36: September 4, 2011 10:33 AM, Posted by Patrice Livingston

Rhode Island established the first statewide family court system in the United States nearly 50 years ago. That means it can once again be a leader and be the firs to ABOLISH THE FAMILY COURT system now that it has lost its way, no longer serves us and actually harms our communities with outmoded practices and collateral mandates that money driven. Times have changed. The original intention of establishing friendly family relations no longer holds priority for the public servants, including attorneys, who work with families that struggle to restructure and reorganize. The Family Court needs to be abolished. It has tripled in size needlessly, has created ancillary programs that are unnecessary and actually work against the originally stated goals listed below to "assist, protect and restore families whose unit or well-being is threatened." Indeed, the Family Court ITSELF is a very serious threat to the unity and well being of families in our communities.

HISTORY

In 1935, the Domestic Relations Division was created within the Superior Court, the state's general trial court. The act creating this court division was designed to focus attention upon this field of jurisprudence, primarily with a view to reconciling the parties and re-establishing friendly family relations. In 1944, jurisdiction of juveniles was moved from the District Courts and placed in a statewide juvenile court.

In 1956 the Governor appointed a Family Court study committee which, in 1958, submitted a report recommending a Family Court for the State. On June 3, 1961, the Act creating a Family Court became law. Five (5) judges were appointed, one Chief Judge and four (4) Associate Justices.

The Rhode Island Family Court was the first statewide Family Court in the United States. In 1973, a Master of the court was appointed, and in 1987 a General Master was appointed. Today the Rhode Island Family Court consists of a Chief Judge, eleven (11) Associate Justices, a General Magistrate, and eight (8) Magistrates. The Family Court employs approximately 165 persons including all department personnel, court reporters, judges, and magistrates.

In 1981, the Rhode Island Family Court moved into the newly constructed Garrahy Judicial Complex in Providence, a six story building designed and constructed specifically for use as a courthouse. The building also houses other state judicial entities including the District and Workers' Compensation Courts. (The state’s Superior and Supreme Courts are housed in separate courthouses.) The Family Court has offices in three (3) county courthouses.

GOALS AND JURISDICTION

The Family Court was created to focus special attention on individual and social problems concerning families and children. Consequently, its goals are to assist, to protect, and if possible, to restore families whose unity or well-being is threatened.

This court is also charged with assuring that children within its jurisdiction receive care, guidance, and control conducive to their welfare and the best interest of the state. Additionally, if children are removed from the control of their parents the court seeks to secure care equivalent to that which their parents should have provided.

Consistent with on these goals, the Family Court has jurisdiction to hear and determine all petitions for divorce and any motions in conjunction with divorce proceedings, such as motions relating to the distribution of property, alimony, support, and custody

of children. It also hears petitions for separate maintenance and complaints regarding support for parents and children.

The Family Court also has jurisdiction over matters relating to delinquent, wayward, dependent, neglected, abused, or mentally deficient or mentally disordered children. In addition, it has jurisdiction over adoptions, child marriages, paternity proceedings, and a number of other matters involving domestic relations and juveniles.

Appeals from decisions of the Family Court are taken directly to the state Supreme Court.

DEPARTMENTS

JUDGES AND MAGISTRATES

1 Chief Judge

11 Associate Justices

1 General Magistrate

8 Magistrates

F**AMILY COURT ADMINISTRATOR**

The Family Court Administrator is appointed by the Chief Judge. Under the general supervision of the Chief Judge, the administrator formulates procedures governing the administration of court services; collects the necessary statistics and prepares the annual report of the work of the court; provides supervision and consultation to the staff of the court concerning administration of court services, training and supervision of personnel, and fiscal management; as a clerk, is the keeper of the court seals and records, administers the court registry, collect all fees, fines and costs; and with the approval of the Chief Judge, appoints deputy clerks, assistant clerks, and clerical assistants as may be necessary.

COURT REPORTERS

The responsibilities of a Court Reporter is to make a true, complete, and accurate record of all criminal and civil proceedings required by law and transcribe faithfully the testimony offered to the court as required by law and directed by the judge. Court Reporters maintain all notes, tapes and records safely, recognizing that they are the property of the Judiciary by statute and that the clerk is the ultimate custodian.

JUVENILE SERVICES

When a police or school department refers a juvenile to the Family Court alleging that the youth is wayward or delinquent by reason that he or she has committed an offense in violation of state law or a city or town ordinance, a petition is submitted, accompanied by an incident report, to the Family Court Juvenile Clerks' Office. Except in cases of emergency detention, all petitions are referred to the Juvenile Services Department for preliminary investigation to determine whether the facts are legally sufficient to bring the child within the jurisdiction of the court and if so, to determine whether the interest of the public or the child require that further action be taken.

On a daily basis, case files with new petitions are assigned to Assistant Intake Supervisors who, using guidelines which were developed and approved by the judges of the Family Court, decide whether or not they qualify for diversion (non-judicial disposition). Those youth whose alleged offense(s) do not fit into the serious category and do not have multiple petitions filed against them will be notified to appear for an Intake Conference with their parent(s) and/or guardian(s) to discuss the allegation(s) filed against them, at which time their constitutional rights are discussed, and a determination of conditions which are to be met to satisfy a non-judicial disposition are issued. The Intake Supervisor/Juvenile Counselor will not divert a case where the youth denies any involvement or responsibility or where the conditions set forth are not acceptable to the juvenile and his/her parent(s) or guardian(s). Also, factors such as age and sophistication of crime, impact on the victim, recommendations of the petitioner, and prior police contacts are taken into consideration. Once the conditions of the informal hearing are executed, a petition can still be filed before the court at a later date should the juvenile clearly and willfully refuse to comply.

In addition, if the proposed informal adjustment is unacceptable to the petitioner an appeal to the Chief Judge is available under Rules of Juvenile Proceedings 4. On average, approximately 30% of the Family Court wayward/delinquent petitions are disposed of informally.

Intake Supervisor’s also prepare Waiver of Jurisdiction and Certification Reports for the judge(s) and attorneys that document a youth’s prior Family Court involvement including Wayward/Delinquent adjudications and dispositions. As such, private and government agencies are notified and requested to provide reports of their involvement with the youth and his/her family and the prognosis for habilitation or rehabilitation within the juvenile justice system.

The Juvenile Services Department also performs restitution collection for the court. A Restitution Investigator has primary responsibility to assist victims of juvenile crime by collecting monetary restitution payments which are ordered by Family Court judges or agreed to as a condition of informal disposition. This investigator may assist the Family Court in determining the amount of restitution due the victim as well as the juvenile's ability to pay. In cases where the amount of restitution requested is in dispute, the Investigator will determine the fair and equitable value by conducting an investigation of the facts or by mediation with the parties.

Other functions include monitoring and documenting community service for youths ordered by the court to perform a specified number of hours within a given period of time.

FAMILY AND JUVENILE DRUG CALENDAR

The Family Court is committed to providing innovative rehabilitative services to Rhode Island's youth and their families. The creation of the Family and Juvenile Drug Calendar allows the judicial system to focus on a therapeutic approach as opposed to the traditional adversarial process. The Drug Calendar combines the persuasive and coercive powers of the juvenile court with clinical assessment and therapeutic interventions. Under the supervision of the Chief Judge of the Family Court, the Drug Calendar is the product of a collaboration among the offices of Family Court, Attorney General, Public Defender, Department of Children, Youth and Families, Department of Human Services, other state agencies, the legislature, as well as, members of business, minority, and community groups.

To be admitted into the program, a juvenile must meet certain eligibility criteria. The program targets juvenile offenders aged thirteen (13) to seventeen (17) who are charged with alcohol and/or drug offenses. Juveniles with a prior violent adjudication or a pending violent delinquent charge are not eligible for the program. A juvenile must also be highly motivated to change his or

her behavior, to engage in intensively supervised and ambitious tasks intended to bring about change, and to ultimately succeed in life. Successful completion of the program can result in vacation of a juvenile's adjudication or plea on the drug offense and dismissal of the petition(s).

TRUANCY CALENDAR

The Truancy Calendar constitutes a change in the present policy of handling truants from a formal court petition to a community and school based intervention program involving various elements of the community. A reduction in truancy has been shown to decrease crime, teen pregnancy, drug and alcohol use as well as to change attitudes to enhance school readiness.

The Truancy Calendar assigns a magistrate to initially hear cases at the local level on a weekly or bi-weekly basis. Both parents and truants are summoned before the court which after a hearing recommends appropriate intervention measures. The court supervises cases on a continuing basis until truancy is no longer an issue.

CHILD PROTECTIVE SERVICES

COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA)

The CASA program was initiated in 1978 by the Family Court. It was modeled after a program developed in Seattle, Washington and was the second program of its type in the United States. The program is based on a unique and innovative format involving trained volunteer advocates who work with full-time staff attorneys and social workers as a team to represent the best interests of dependent, neglected, and abused children who are under the jurisdiction of the Family Court. Since its inception, staff has been expanded several times to meet ever increasing caseloads. Staff attorneys carry an average caseload of 300 children. Staff social workers carry an average caseload of 125 children and act as a resource for CASA volunteers and staff attorneys.

CASA volunteers investigate the circumstances surrounding a case to which they are assigned by conducting home visits and contacting other service providers involved in a case. The volunteers provide ongoing advocacy for the child and submit written reports to the Family Court with recommendations as to the best interests of the child.

Because volunteers are essential to the CASA Office, there are ongoing efforts to bring about name recognition for CASA and to greatly increase volunteer recruitment.

JUVENILE CLERK’S OFFICE

The Juvenile Clerk's Office in Providence maintains all filings of juvenile petitions for the entire state. Assignments are made to the various counties. This office processes petitions which consist of: wayward/delinquent and dependent/neglected/abused children, adoption petitions, voluntary termination of rights, involuntary termination of rights, placement petitions, minors' permit to marry, civil court certification applications, various miscellaneous petitions, administrative appeals, and Mary Moe (abortions by a minor) petitions, as well as maintains an adoption registry.

DOMESTIC RELATIONS OFFICE

The Domestic Clerk's Office processes all domestic relations and domestic abuse complaints and maintains records of same. The

office also processes criminal complaints filed by the Attorney General's Office, school departments, and police departments, i.e. child abuse, domestic assault, failure of parent(s) to send children to school.

It coordinates the jury trial calendar and requisitions jurors when needed. It receives and prepares all appeals to the Supreme Court.

The office prepares the daily calendars for each judge, maintains a daily score card, and maintains a continuous contested calendar. The Principal Supervisory Clerk is responsible for the three (3) offices in the county courthouses.

COLLECTIONS UNIT

The Collections Unit has two divisions: Reciprocal and Bookkeeping. The Reciprocal Office deals with child support enforcement and paternity actions filed by the Department of Administration - Division of Taxation - Child Support Enforcement, attorneys, and the public.

The Bookkeeping Office maintains accounting records for various accounts of the Family Court oversees day-to-day recordings of receipts, reconciles various bank statements, prepares and issues monthly reports depicting the financial condition of the court and cash required, and assists in testifying in court through records.

FAMILY SERVICES

The Family Services Office has two (2) units: drug testing and investigations. The Investigation Unit works with orders from judges to provide information on custody and visitation cases. The unit also works closely with the court on support matters, often helping to find employment.

The Family Service Unit is also charged with administering Alcohol and Drug screens for the various court calendars.

this article available by pdf in @1 here

and was retrieved 04 Sept 2011 from: http://www.courts.ri.gov/Courts/FamilyCourt/PDFs/AbouttheFamilyCourt.pdf

Cross References:

commented on by (1)

policy37: re: Rhode Island Family Court History - An ACT is Needed to Abolish it Now.

Attachments:

1. AbouttheFamilyCourt.pdf (81.5 KB)

Stress Quotes and Facts

health34: August 11, 2011 5:08 PM, Posted by Patrice Livingston

Stress Quotes and Facts

The following quotes are from Prescription for Nutritional Healing 4th edition. “Researchers estimate that stress contributes to as many as 80 percent of all major illnesses, including cardiovascular disease, cancer, endocrine and metabolic disease, skin disorders, and infectious ailments of all kinds.”

“The increased production of adrenal hormones is responsible for most of the symptoms associated with stress. It is also the reason the stress can lead to nutritional deficiencies. “

“Increased adrenaline production causes the body to step up its metabolism of proteins, fats, and carbohydrates to quickly produce energy for the body to excrete amino acids, potassium, and phosphorus; to deplete magnesium stored in muscle tissue; and to store less calcium.”

“As a result of a complex of physical reactions, the body does not absorb nutrients well when it is under stress. The result is that, especially with prolonged or recurrent stress, the body becomes at once deficient in many nutrients and unable to replace them adequately. Many of the disorders that arise from stress are the result of nutritional deficiencies, especially deficiencies of the B-complex vitamins, which are very important for proper functioning of the nervous system, and of certain electrolytes, which are depleted by the body’s stress response.”

“The pituitary gland increases its production of adrenocorticotropic hormone (ACTH), which in turn stimulates the release of the hormones cortisone and cortisol. These have the effect of inhibiting the functioning of disease-fighting white blood cells and suppressing the immune response.”

“Further, stress increases the level of an immune system protein called interleukin-6 (IL-6), which has direct effects of most of the cells in the body and is associated with many disorders, including diabetes, arthritis, cancer, osteoporosis, Alzheimer’s disease, periodontal disease, and cardiovascular disease. IL-6 has also been linked to frailty and functional decline on older adults.”

“Digestion slows or stops, fats and sugars are released from stores in the body, cholesterol levels rise, and the composition of the blood changes slightly, making it more prone to clotting. This in turn increases the risk of stroke or heart attack.”

“Stress also triggers the release of cortisol, an adrenal hormone that regulates carbohydrate metabolism and blood pressure.”

“Stress also promotes the formation of free radicals that can become oxidized and damage body tissue, especially cell membranes.”

“Stress is also a common precursor of psychological difficulties such as anxiety and depression.”

“It also ages brain cells and builds fat around the body’s midsection.”

“Many psychiatrists believe that the majority of back problems, one of the most common adult ailments in the United State, are related to stress.”

"One gene in particular is very important because it's related to the body's production of glutathione, our most powerful detoxifier and antioxidant. Your body can only excrete mercury when it's bound with glutathione."

"9. The only way to find out your total body load of mercury is to take a medication with sulfur molecules that binds to the mercury like fly paper. This is called DMSA or DMPS.""

* Methylation nutrients (folate, vitamins B6 and B12). These are perhaps the most critical to keep the body producing glutathione. Methylation and the production and recycling of glutathione are the two most important biochemical functions in your body (see my blogs on methylation for more details). Take folate (especially in the active form of 5 methyltetrahydrofolate), B6 (in active form of P5P), and B12 (in the active form of methylcobalamin)."

"I'm talking about the mother of all antioxidants, the master detoxifier and maestro of the immune system. It is GLUTATHIONE (pronounced "gloota-thigh-own")."

"We've learned a lot about how this mercury effects us and our children from reported exposures to mercury over the last 100 years. These include epidemics such as the Minimata Bay exposures in Japan, acrodynia or pink disease in children from calomel (HgCl) used in teething powder, "mad hatter syndrome" or erethism, and methylmercury fungicide grain seed exposures in Iraq and Pakistan.

The symptoms and diseases these exposures have caused are varied and mimic many other conditions. Nervous system toxicity can cause erethism ("mad hatter syndrome" as mentioned above) with symptoms of shyness, laughing, crying, and dramatic mood swings for no apparent reason; nervousness; insomnia; memory problems; and the inability to concentrate.

Other neurologic symptoms may include encephalopathy (non-specific brain malfunction), nerve damage, Parkinsonian symptoms, tremor, ataxia (loss of balance), impaired hearing, tunnel vision, dysarthria (slurred speech), headache, fatigue, impaired sexual function, and depression."

Cross References:

referenced by (1)

pvl80: Re: SPARK Digest

New calendar aims to streamline R.I.'s domestic-violence cases

rifoja43: September 28, 2011 6:44 PM, Posted by Patrice Livingston

By Katie Mulvaney /Journal Staff Writer

PROVIDENCE — It's week two of the unrolling of Rhode Island's first dedicated domestic-violence court calendar and, already, Superior Court Judge Susan E. McGuirl is seeing assaults, stalkings, vandalism and murder.

In all, more than 300 criminal cases are expected to be placed on McGuirl's calendar in the state criminal justice system's latest strategy to combat the persistent problem of domestic violence. They involve lovers, brothers and sisters, married couples, grandparents.

The idea is to have a single judge preside over felony domestic-violence cases from post-arraignment through sentencing. Supervision by a lone judge, as opposed to an array of judges or magistrates, aims to increase the safety for the accusers and hold defendants accountable by having the case proceed in more expeditious fashion. The thinking is that the judge will develop familiarity with the defendant, as well as the complainant, and their history.

The effort comes at an opportune time. Though statistics show the number of domestic-violence cases dropped in Rhode Island over the past decade, 2010 saw the highest number of murders linked to domestic violence since the Rhode Island Coalition Against Domestic Violence began keeping records more than two decades ago.

McGuirl recently added one of those murder cases to her list: Constantino Nardolillo. Authorities say Nardolillo beat his wife, Annmarie, to death in January 2010 in Providence's first homicide of the year.

Barry Oliver is one of the first defendants to appear before McGuirl under the new system.

He slapped his ex-girlfriend across the face, grabbed her by the throat and snatched the telephone away from her when she tried to call the police, according to a spokeswoman for Attorney General Peter F. Kilmartin. In April, a jury returned a guilty verdict

against Oliver, who has been held without bail since July 1.

Oliver's criminal history includes two previous convictions for simple domestic assault as well as convictions for twice violating no-contact orders.

McGuirl is scheduled to sentence him in the latest case on Sept. 30.

Domestic-violence cases are like no others.

The defendant and his or her accuser know each other and might even live together. They are often financially and emotionally intertwined with children in common. The crimes sometimes escalate over time with the dynamics of power and control at play. They are known for volatility.

"The system is geared toward strangers who don't know each other …," McGuirl said. "We were treating those cases like every other case, and I don't think it was working well."

The domestic-violence calendar arose over the past year after concerns emerged that cases were lagging and proving to be some of the most difficult in the system, McGuirl said.

She and Superior Court Presiding Justice Alice B. Gibney developed a concept that mirrored similar courts nationally, in conversations with the attorney general's office, state Public Defender John J. Hardiman's office and the Rhode Island Coalition Against Domestic Violence.

"These kinds of cases cry out for coordination," Gibney said. "There is a lot of volatility, a lot of emotion and hostility, because the parties know each other. It is dangerous to let these cases linger."

Having a single judge hear domestic-violence cases is expected to provide consistency and move matters along more quickly. Currently, McGuirl is overseeing the calendar four days a week, but she plans to consolidate the calendar to one day a week in the coming months. She will monitor the cases' progress through to trial and then either assign it to another judge or handle the trial herself, she said.

The calendar is welcome in Kilmartin's office, where domestic-violence charges can prove more difficult to prosecute with time. Prosecution relies on the cooperation of witnesses who may grow more reluctant to testify as weeks and months pass. Often, they are ambivalent from the start.

"Maybe you're financially dependent, maybe you're emotionally dependent," said Special Assistant Attorney General Daniel Carr Guglielmo, chief of the attorney general's four-lawyer domestic-violence unit. "There are so many attachments."

From Guglielmo's perspective, it will aid prosecutors to have witnesses face the pressures over a shorter period. It will also raise their comfort level by having a single judge handle the case along the way, he said.

McGuirl expects that continuity to benefit the defendants as well as their accusers. "I think it's to everybody's advantage," she said.

The specialty calendar has the backing of the public defender's office. "If it works, we'll support it," said John E. Lovoy, chief

trial attorney for the public defender's office.

Defense lawyers are optimistic about its success. "It minimizes any chance a case will get lost," said defense lawyer Kevin Bristow before going into conference with McGuirl. "[The calendar] directs attention to cases early on, and keeps attention on them."

Rhode Island's domestic-violence calendar would be one of more than 300 similar initiatives nationwide, according to the Center for Court Innovation. The nonprofit center, with the assistance of the U.S. Department of Justice, helped launch the first domestic-violence court in Brooklyn in 1996.

"The domestic-violence docket is great," according to Rebecca Thomforde Hauser, associate director of the domestic violence and sex-offender management programs with the Center for Court Innovation. "I think it can accomplish the same goals."

Research has shown mixed results. A study by the center revealed that the courts promoted expedited case processing and were well-received by accusers who were directed toward service agencies. Judicial monitoring appeared to increase compliance with court-ordered mandates, but it was unclear if the number of convictions rose. Oversight by a single judge, however, was found to have little impact on the likelihood that a defendant would re-offend.

Unlike the New York domestic-violence court, the Providence County calendar will not have a victim's advocate in the courtroom at its outset, Deborah DeBare, executive director of the Rhode Island Coalition Against Domestic Violence, said. A member of the victim-services unit for the attorney general's office will accompany the complainant, but his or her goal will be in sync with the prosecutor's, said Ana Giron, head of the victim-services unit.

The coalition's objective, DeBare said, is to provide support for the victim — alone. "Sometimes, it's a similar goal," DeBare said of the victim-services staff. "Sometimes, it's a goal counter to the victim's."

The victim, for example, DeBare said, might be seeking a lesser sentence because she needs the defendant to return to work to help pay the rent and support the family. "She may be totally dependant on the abuser," DeBare said.

The coalition now places an advocate to oversee cases in District Court, but does not have the resources to staff Superior Court, she said.

Still, Giron said, her staff works closely with other agencies to connect accusers with the services or shelter they need. "The advocates have a relationship with the victims … to do things to keep her safe from herself," Giron said.

Gibney plans to apply for a U.S. Department of Justice grant to pay for a part-time resource coordinator to assist McGuirl. That person would put the accused and his or her accuser in touch with services they may need, such as batterer's intervention, McGuirl said.

McGuirl has borrowed a staff member from the drug court to help manage the calendar, and to reach out to Family Court about related cases, she said. "We've never had that coordination before."

McGuirl is also using the calendar as an opportunity to collect data about domestic-violence cases. At this point, she said, the court doesn't even have a count on how many are filed each year.

Eventually, McGuirl hopes the judge overseeing the calendar will monitor compliance with protection orders, and that similar calendars can be created in courts throughout the state.

BY THE NUMBERSDomestic-violence arrests

Number of people arrested in Rhode Island over the last three years on domestic-violence charges.

515 in 2008 -- 514 in 2009 --- 460 2010
Data Source: Rhode Island Coalition Against Domestic Violence

kmulvane@providencejournal.comoriginal
original Providence Journal article pulled online 28 Sept 2011 from:

http://www.projo.com/news/content/DOMESTIC_VIOLENCE_CALENDAR_09-26-11_K7Q73Q8_v51.691c9.html

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emailed by (1)

pvl107: New calendar aims to streamline R.I.'s domestic-violence cases

Attachments:

1. RI0926_dv_mcguirl_2_09-26-11_OLQJ9PO.jpg (30.3 KB)

New Canaan resident sues state officials

policy39: September 14, 2011 2:08 PM, Posted by Patrice Livingston

Posted on 19 August 2011. Tags: 4th ammendment, allegations, amazing, civil rights, Corruption, CT, ct dcf, DCF, rights

New Canaan resident sues state officials.

New Canaan resident Michael Nowacki has sued a myriad of state officials for an alleged failure to uphold the U.S. and state constitution.

In his suit, Nowacki names governors Dannel Malloy and Jodi Rell, several of Malloy's advisors, seven state legislators, including local senators Scott Frantz and Toni Boucher and representative William Tong, and dozens of judges, lawyers, and other people associated with Connecticut's legal system.

Click here to download a copy of the complaint. (pdf, 104 pages)

Nowacki, who is representing himself, alleged in his suit that he has been "deprived of his lawful Constitutional rights … as a parent to the love and devotion of his two children in court proceedings" in 2009. He argues that the defendants acted "outside of their authorized judicial authority" and every court operates under mutually-agreed-upon rules of practice, which he says are unconstitutional. Because of this, Nowacki argues that any jurist who supports the rules of practice is violating the constitution, and therefore "there is no court in the state of Connecticut."

According to the documents, Nowacki filed the suit because a court stripped him of his custody rights after he was divorced. He says that the court's action was invalid and violated his parental rights.

The lawsuit was filed on Monday, August 8, in U.S. District Court of Connecticut. Judge Stefan Underhill is presiding.

downloaded source 14 Sept 2011 from: http://www.corruptct.com/corrupt/new-canaan-resident-sues-state-officials/

Former Pennsylvania County President Judge and Juvenile Judge Mark Ciavarella Sentenced to 28 Years in Prison

legal28: August 11, 2011 8:24 PM, Posted by Patrice Livingston

U.S. Attorney's Office
August 11, 2011
Middle District of Pennsylvania
(717) 221-4482

SCRANTON, PA—Mark A. Ciavarella, former president judge of the Court of Common Pleas and former judge of the Juvenile Court for Luzerne County, was sentenced in federal court in Scranton, Penn., today by Senior U.S. District Court Judge Edwin M. Kosik II, announced Peter J. Smith, U.S. Attorney for Middle District of Pennsylvania. Senior Judge Kosik sentenced Ciavarella to 28 years in prison and ordered restitution be paid in the amount of $965,930 to the Commonwealth of Pennsylvania for his judicial salary and $207,861 in restitution related to the tax charges.

Ciavarella and his co-defendant, Michael Conahan, who also served as president judge of the Court of Common Pleas of Luzerne County, were initially charged in January 2009 with honest services mail and wire fraud and tax fraud in connection with the use of privately owned juvenile detention facilities. The charges were the result of a federal investigation of alleged corruption in the Luzerne County court system. The inquiry began in 2007 and over the next four years expanded to include county government offices, state legislators, school districts, and contractors in Northeastern Pennsylvania. Both defendants agreed to plead guilty. In July 2009, Judge Kosik rejected the proposed plea agreements because the defendants did not appear to accept responsibility for their conduct.

In September 2009 and September 2010, a grand jury in Harrisburg, Penn., returned superseding indictments charging both defendants with racketeering, honest services mail fraud, money laundering, extortion, bribery, tax violations, and conspiracy. The government also sought the forfeiture of approximately $2.8 million in assets allegedly acquired by the defendants through racketeering and money laundering. In response to the U.S. Supreme Court's 2010 decision in United States v. Skilling, the 2010 indictment specifically charged that bribes and kickbacks were paid to the defendants.

After an 11-day trial in Scranton in February 2011, a jury found Ciavarella guilty on 12 of 39 counts: racketeering, racketeering conspiracy, money laundering conspiracy, conspiracy to defraud the United States, four counts of honest services mail fraud, and four counts of filing false income tax returns. The jury also found that Ciavarella should forfeit $997,600, the sum he received from Robert Mericle, the developer who built the juvenile detention facilities.

Ciavarella testified at trial, claiming that the payments he received from Mericle were "finders fees" or "honest money" with no connection to Ciavarella's actions as a judge, and denied that he received payment from Robert Powell, owner of the facilities.

The evidence established that Conahan closed the Luzerne County Juvenile Detention Facility when he was chief judge and helped arrange the financing for the private facilities; that Ciavarella, as juvenile court judge, sent juveniles to those facilities; that both men obstructed efforts to question the county's use of the facilities and their financial relationships with Mericle and Powell; and both judges used bank accounts, straw parties and real estate vacation property to hide and launder payments

received from Mericle and Powell. The evidence also showed that Ciavarella failed to report receipt of the funds on annual financial interest statements he was required to file as a judge and failed to report the income on his federal income tax returns. Mericle and Powell have pleaded guilty pursuant to plea agreements and are awaiting sentencing.

Conahan pleaded guilty to racketeering conspiracy in April 2010. He did not testify at trial and has not been sentenced.

The judicial scandal, described as the worst in Pennsylvania's history, and the federal prosecutions have had major consequences: Ciavarella and Conahan resigned from the bench in 2009. Reform and housecleaning are underway in the Luzerne County court system. The Supreme Court of Pennsylvania was compelled to vacate thousands of juvenile convictions in Luzerne County as a result of Ciavarella's conduct as a juvenile court judge. A State Interbranch Commission on Juvenile Justice was established to study what happened and to recommend changes in the state's justice system aimed at safeguarding the constitutional rights of juveniles and improving the oversight and disciplinary process for judges in Pennsylvania. In June 2011, a committee of the American Bar Association reviewed and made recommendations to improve procedures in the state's Judicial Conduct Board. A procedure was established in Luzerne County for compensation of victims of the activities of Ciavarella and Conahan.

Ciavarella voluntarily surrendered at the end of the sentencing hearing and was taken into custody by the U.S. Marshals.

In the U.S. Attorney's Office, the prosecution was conducted by a team consisting of Senor Litigation Counsel Gordon A.D. Zubrod, Assistant U.S. Attorneys William S. Houser, Michael A. Consiglio and Amy Phillips, and Criminal Division Chief Christian A. Fisanick.

The case was investigated by the agents of the Internal Revenue Service, Criminal Investigations and the FBI's Scranton office.

Rhode Island Family Court Issues

policy4: August 8, 2011 5:11 PM, Posted and Edited by Patrice Livingston

If the Berlin Wall can come down 40 years after it was put up - so too can the oppressive walls of a lawless family court which harms our communities in RI.

Introduction

This report aims to provide some initial legislative findings for review by the RI General Assembly in order to motivate fiduciary, performance, and judicial reasons to abolish the RI Family Court. It no longer serves the best interests of our citizens, families and children. As surely as we had to finally admit the rusting down, dangerous, and limited carrying capacity of the old Jamestown bridge over a decade ago, we must recognize the limitations of our current Family Court processes, programs and procedures as no longer safe or fiscally prudent to be relied on to carry us from here to there across troubled waters. When families need to restructure from one configuration of family composition to another, based on health, jobs, needs of the children, education, economy, or even duress, illness or death of the parents ~ they need to be able to do so swiftly, safely, effectively and efficiently. New compositions, living arrangements, flexible schedules, job, work, school or housing/rental agreements, open visitation, extended family, community engagement and civil rights all must be taken into consideration when solutions are put forth.

Even technology can be used in a positive way to help children remain connected with skype, picture sharing, email, or cell phones, if a geographic separation occurs. The military has made great strides in keeping deployed service members connected to friends and family back home, and it has proven benefits for the morale, health and welfare of all parties. Global business concerns also recognize the need for integrating family connections while demanding international travel of its employees. All sorts of additional benefits and options are made available to bridge that work/life balance. Community centers can do likewise without government intrusion into privacy. We have a very diverse citizenship, a mobile workforce, a flexibility of educational opportunities and many options for children and families to participate in their communities without the need for the court to run peoples' lives. We certainly do not need mandatory programs which cost time and money for the participants, or cause the taxpayer to fund more protracted litigation or harmful practices that abuse privacy, parental rights, and constitutional protections. Many of these ineffective unaudited programs soak money out of struggling people. The state loses track of child support payments while it collects the interest, only to bloat the system with more administrative overhead for programs which harm.

This report highlights the international context of women's justice as one global context for judicial reform which has very local impact. This collection of findings also details the failing national $4 Billion dollar portion of the nearly $80 Billion HHS ACF budget that our nation then imposes as collateral mandates on the states to accept federal control or care of state citizens (*and which usurps state sovereignty)*. These findings reveal how our very own state has responded via a bloated judiciary that now routinely funds health care research and nonprofit administration, contracts private professionals and unregulated auxiliaries without ethical or disciplinary oversight on these individuals (and also neither fiduciary or performance measures). This has given judicial accountability over to county administrators who run the bench and outcomes for families based on money motivators through the OCSE unearned authority over people's lives. APRA requests reveal some questionable contract activity which leads to more inquiry.

All of this has led to millions in *unaccounted-for* state funding as washed through the Family Court giving rise to serious questions of corruption of the public trust. We need to eliminate the Family Court and push our judiciary to uphold civil laws and criminal laws in just those two very streamlined judicial processes. There are now so many specialty courts, seams and cracks in the judicial system for people, kids and families to fall between, a member of the public cannot even get an organization chart on whom to go to, and for what help, or in which government building as the social services are increasingly being run by the courts, or the counties, or nonprofits out of court budgets as a pass through, or worse, via law enforcement agencies. If a person asks a government worker or clerk, that individual will only be yielded the standard company line: ***we don't dispense legal advice.***

The only way to stem the tide of crack formation where one court does not know what the other is doing, as the families fall in between competing directives or funneled into needless (court funded) services and programs ~ *is to seal those cracks.* The courts now do many administrative activities so the judiciary sustains reporting and thus retains its operations funding - often fraudulently. This leads to families and people trapped in services, emotionally defeated and unable to work. They are coerced into mandatory programs without being told of their rights. If we want seamless operations - we must get rid of the seams. If we want judicial accountability, then we must give the bench decision back to the good judges we have nominated who will preserve due process and civil rights; not order needless rights-violating programs that invade privacy or coerce health care without informed consent. Or take our children in abject violation of constitutionally protected rights. There should be no attorney or judicial immunity for such egregious violations.

The laws of this state are the peoples creed. They comprise the statutes which represent how we want to live our lives, promote good and healthy living, have reliable roads or clean water, education systems and jobs in our communities. They also spell out what we find collectively unacceptable and punishable for working against the common good, known as crimes or civil offenses. These crimes have penalties or the civil violations bring curtailments for behaviors and actions about how we all agree to live together as citizens. We expect the judiciary to uphold the laws (*not to give sway to administrative demands for support of dozens of propped up centers at the expense of the kids and families)*.

Background and Context

see original source of quote below by:
Effie Ballou (c) as retrieved August 7, 2011 from
http://www.parentsinaction.net/english/Family_Court/History%20of%20Family%20Court.htm

"Although the precursor of family court was really child or juvenile court, the framers of family court probably could not have fathomed it would become a tribunal for every family related dispute as it exists today. The concept actually arose in the late nineteenth century when the first separate juvenile court was established in Chicago. Massachusetts, Rhode Island and Indiana, under the auspices of the "common law doctrine" also established a separate court to try children.

It is here where the seeds of parens patriae, or protection for children against themselves or their parents began. With the common law system, the law is made not by legislators but by the courts and the judges. It is often referred to as the "unwritten law." In substance, common law lies in the published court decisions. This offered judges within this system wide discretion to shape family law. By the 1960s, Family Court became firmly established and as Justice Potter Stewart stated in Parham v. J.R.

(1979) "issues involving the family are the most difficult that the courts have to face." Hence, it is no surprise that family law cases are some of the most disputable. Family cases actually placed state and federal regulations against disputes brought by fathers, mothers, husbands, wives and children. Consequently, some intricate legal doctrines have arisen trying to define the responsibilities of the family. Ironically, these same doctrines have been controversial and given way to deep disagreements.

Under nineteenth century federalism, the states had primary responsibility for family laws, including marriage, divorce, childrearing and inheritance. For example, in Maynard v. Hill 125 US. 190, (1888), the Supreme Court stated that the state had jurisdiction over the family endorsing state regulation of the family.

In the 20th century, states continued to control the structure of family life by releasing national family law standards universally applied from state to state. The first federal judicial involvement began under the guise of parental rights in Myer v. Nebraska, 262 US.390, (1923) which affirmed the right of parents to choose a curriculum. This was further affirmed when Pierce v. Society of Sisters 268 US. 510, (1925). The Supreme Court upheld the right of a parent to direct his or her child's education endorsing parental authority as absolute and constitutionally protected in choosing which school was appropriate for their child. Prince v. Mass, 321 US. 158, (1944) broadened this ruling by declaring that family life could not be disturbed by intervention of the state without substantial justification. The Supreme Court granted autonomy from state regulations by liberties granted under the Fourteenth Amendment. By the 1960s, the family fell under more court scrutiny and spurred the creation of more extensive family law. Other issues came to light when Loving v. Virginia, 388 US. 1, (1967) involved an interracial couple that got married in D.C., under D.C., marital laws who then moved back to Virginia. They were held accountable for violating Virginia's interracial marriage ban. Still, more issues came to light with the introduction of no fault divorce in the 70s. Laws in almost every state now changed so that divorce could be obtained without having to find adultery as grounds. It also began an equal division of assets. The tender years doctrine was abandoned and the current trend is for courts not to show deference to mothers in custody disputes.

In re Gault, 387 US 1 (1967) expanded the right of juveniles in the court setting with due process and right to counsel incorporating many, but not all of the rights of adult criminals under the Fourteenth Amendment. Ironically, forty years later, Family Court while affording the notion of individualism has intervened even further into mediating disputes within the family court. Enforcing parental rights over grandparent rights in Troxille v. Granville (99-138), 530 US 57 (2000). Another seeming paradox is in DeShaney v. Winnebago Department of Social Services when her four year old son was left profoundly retarded by repeated beatings of his father, even though social services was aware of the beatings from complaints placed from the father's former girlfriend and the boy's mother. The court found that nothing in the language of due process clause requires the state to protect the life, liberty and property of its citizens against private actors. Again, we come to another case, which seems to contradict this ruling. In Raucci v. Town of Rotterdam, 902 F.2d, 1050 (1990), Mrs. Raucci was receiving threats to her life from her ex-husband. Although at least 10 calls were placed to the local police department, they were largely ignored. The boy's father ended up killing him and wounding the mother when he shot them when they were sitting in their car. Mrs. Raucci was allowed to sue the police for damages.

Termination of parental rights, enactment of child support standards, parental kidnapping charges over the court's inability to allow the child, whom they gave due process rights to in Parham v. J. R., to voice in being abused by another parent. This we have seen with the Nathan Greico tragedy and with Alana Krause who claims her father had her committed in order to keep her

quiet and is currently seeking justice. With Clinton's fatherhood initiative sanctioned in 1995, he stated that every area of social study should include fathers. This has also been seen in family courts venues as more custody disputes being challenged. Family court's venue only can become more complicated as families struggle. Judges still retain wide discretion. Due process rights have drawn more attention since parents can be accused of felony child neglect or abuse but not afforded a jury trial. Ex parte hearings can be held and clear and convincing evidence is used in place of beyond a reasonable doubt. Finally, hearsay is allowed during hearings in Family Court and not in any other court room.

In the last two decades, the family dysfunction continues to present itself before the Family Court. Social Science's rapid growth continues to be a main influence into family doctrine standards. In the last two decades, family problems have fed the self-interested for-profit industries of psychologists, psychiatrists, expert witness, social workers, doctors and all other industries who see the family dysfunction as a boon market for profit.

Presently, the court holds the power to make and shape the law through "unwritten" law, adjudicate any violations of the law they shape and finally, penalize the offenders of these laws. It is no wonder that many families feel violated and raped of justice and due process rights by the control and decisions made by Family Court judges. In divorce and custody cases, the open ended system of Family Court can place a family at the hands of family court indefinitely whenever one party decides to motion for change of support, custody or visitation. It will be inevitable that the continued hold and lack of a watchdog upon the Family Court System decries change."

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Rubington & Weinberg, The Study of Social Problems, 2003. Oxford University Press Hall, K. L., Oxford Companion to the Supreme Court, 1992 http://www.kylewood.com

As the history section above explains, the original idea might have been to expedite and help families and to offload a portion of the regular civil calendar. However, the federal government has imposed congressional missions into directives on the states and year over year, the states have had to respond by allowing a lawless Family Court to run the common law household. In so doing, the state Family Court system has ballooned into an administrative clearinghouse for a wide variety of health and human services programs. The court makes participation "court-ordered" and implements these mandatory programs via an abuse of "discretion".

When a cursory budget review is done, it suggests that the judiciary has become the "executive administrator" over HHS programs and federal money which is 100 times the allocation given to the administration of the Judiciary (*$6 million of federal funds goes for the paperwork machinery of the judges "ordering" people to participate in over $600 million in federally funded various health and human services* - without any public awareness of what MANDATES come along with either the administrative control or the implementation of all these federal programs). Over time, this has usurped judicial authority away from actual domestic relations law, as a very specialized portion of civil law, and even less so in criminal law where true physical or sexual abuse activities carry criminal penalties (*most research puts that at less than 5% of the cases, even though its a critical 5% deserving of special attention in the criminal courts - where it currently is not dealt with appropriately all while Family Court has such the lawless discretion)*. It has turned into a machinery of unchecked pork programs, no real durable procedures and so results in wide spread abuses (legal, medical, fiscal, and constitutional).

From there, all sorts of problems between the health care field and the legal field now clash violently in the Do-No-Harm versus the Take-No-Prisoners paradigm war leaving children and families as carnage in the battle. The worst offenses have come about when lawyers manipulate doctors to secure judicial outcomes from the bench. Clinicians must recognize the dangers when officers of the court reach out to them (against ethics, privacy, statutes and sometimes unlawfully; often breaching confidentiality along the way). Lawyers are hired to zealously represent their clients, no matter who gets hurt. Health care professionals who are trained to first "do no harm" are easy prey for adversarial attorneys, and children suffer the consequences alongside good and struggling parents who have no idea they have been funneled into these mandatory programs. This is all done just so the court can report to the federal government (*and not really make any pragmatic or durable rulings and orders which would actually help families or uphold the laws*). Below is just an abbreviated list (from a very large list of unchecked federal programs) that the federal government insists the states **must** participate in - otherwise _____? Otherwise what?

What makes these programs "mandatory" has been difficult to discover. We need to fill in that blank. What happens if the state of Rhode Island does NOT participate? By what law, or memorandum of agreement between the State of Rhode Island and the ACF (Administration of Children and Families) are we dictated upon to coerce our citizens to participate in these programs? Such an answer to this question is not readily available or obvious. However, it must exist somewhere, either between the legislators and the federal government or the treasurer or the governor or some executive authority in relation to various departments in the federal government. Also, said agreements should be made publicly available under APRA (RI's Access to Public Records Act) and FOIA (the US Freedom of Information Act) and yet they are never named out so that we can request them. The answer to this question bears deep scrutiny by the RI General Assembly going forward. Here's a small example of some of the programs in which we participate (or so it seems in reverse engineering the appropriate against the federal government clearinghouse):

Rhode Island - FEDERAL GOVT ACF MANDATORY PROGRAMS - No Accounting MAPS the federal program title on the left to RI budget items in appropriations bill. Where does the money actually FLOW?

- Payments to States for Child Support Enforcement and Family Support Programs > $8M
- Children's Research and Technical Assistance >$?? large amount spread out in budget
- Temporary Assistance for Needy Families (TANF) >$not clear in RI budget
- Foster Care and Permanency >$50 M
- Supporting Healthy Families and Adolescent Development >$ not clear
- Social Services Block Grant (Wide open...) - >$ scattered all over RI budget

There are many other programs, grants and federal money flowing through the state in the form of VAWA initiatives and other programs that come through the Department of Justice. The problems continue to mount as the lines blur between Health and Human Services, and our Justice System. It is up to the state to make clear distinctions about what is judicial, and what is legislative care of our most vulnerable citizens with regard to quality of life, special needs, ability to live independently for the disabled, the elderly, the injured, the displaced, the ill and other dependent categories of citizens who need the help of the humane and general collective. Do we really need 25 decision makers and paper pushers for every one litigant that seeks some kind of legal restructure, of one type or another in our Family Court? Do we even need the Family Court any longer?

We need to get psychologists out of the courts: period. However we do need to get ethical and lawful accountability ***in to*** those licensed professions and for those who provide medical, mental or other social services care of our public in the public service

sector. Our system is in danger when health professionals are delegated with judicial authority over peoples lives and yet there is no disciplinary measure to be had for ethical or legal breaches when such contractors are not covered by our laws. This is true whether they are private contractors, one of the long list of DCYF state employees, attorneys serving in conflict of interest roles as GALs or mediators, or nonprofit centers with attorneys and judges on their boards of directors. We have no specialty license for family law for any of these professions and no accountability. Disciplinary complaints disappear or are not taken seriously. Or, if the motions of "investigations" are gone through with hand waving and letter writing, the letter almost always come back: *no problem found* [while the investigation never includes any interview, deposition or amplifying data - by the complainant].

The STOP formula grants need to be assessed against RI Judicial programs and grants for duplicity, authority, or fungible services that our communities might provide at the grassroots level where people know one another and can do the most good. After all, it is people who provide the human touch of family and friends, neighbors, civic and faith based organizations; all helping one another. The encroaching administrative oversight by both law enforcement and the judiciary on health and human services that our state funds for its citizens is a very alarming issue that must be reversed - and in turn should save the state money as well as restore the public trust in those specialties. People should not live in fear that a county official, accompanied by an officer, will come to their house and take one's children, because of an anonymous call to a lawless system which has fabricated a potential harm. The fiscal motivations to put the child in foster care, and the parent in jail or in supervised visitation, both of which also threatens their work situation, is much too high when all these government agencies have become trained, and complacent, about *that's how we do things, in order to report to the government that we meet the "mandates"*.

And then we are asked to recall the holocaust ~ and how the ditch diggers and train conductors also said... they were only "doing their jobs".

A few 2012 Rhode Island Appropriations Highlights

The RI budget document shows a $20.8 million budget for the RI Family Court ($17.5 of it for general revenue and $2.9 from federal funds - page 23). The State police have a $69 million budget with $2.3 million of it in federal funds (page 25). Just those two items alone comprise $5 million that should be audited and either consolidated or refused, if the form of mandates are not what the State of Rhode Island intends to accept as control over the lives of its citizens. Meanwhile we list a $301 million budget on State Funded Programs for public assistance ($299 of which is from the federal government). Plus another $100 million in Individual and Family support from the federal government (over top our $22 million in general revenue - page 14) along with $6 million for federally funded child support enforcement. The state funds $2.2 million to administer, staff and run CSE. The OCSE $6 million federal budget which plays games with the money, and usurps authority from the judges, and harms families through its policy of withholding, is harmful to the economic viability of our state. Ironically under child welfare the state spends over $19 million on protective services ($10 million from general revenues and $9 million from federal programs) and just a mere $1.4 total on prevention. Are the priorities ever evaluated? We spend $8 million chasing child support payments and over $600 million on public assistance.

Does the $8 million or $22 million (depending upon what's being counted) even make sense - when it could be used for job stimulus to get people off public assistance? There is plenty of work to do in rebuilding Rhode Island besides sending administrators with badges to hunt down struggling parents. If they are not paying because they are ill, or have substance abuse problems, cannot find work, are uneducated, or need some sort of help - lets add the $8 million to the IFS budget instead of the CSE budget and help people (not hunt them down just to take our 1/3 cut and give 2/3 of the proceeds we get back to the feds -

yes, that is the mandate).

In 2006 the DOJ issued over $2M in grants to Rhode island and most of it went to the STOP formula. This is the same year that the RI Bar Association ran continuing education courses in PAS (parental alienation syndrome) as a wining legal strategy to get psychologists to help them secure custody for their clients. Children began to be invalidated in their own testimony, preferences and even special needs. More importantly, there is an uptick over the five years which follow from 2006 to now 2011 where good and nurturing parents have completely lost their children, supervised visitation has become a way of life for some families, and attorneys have learned that the judges are in the habit and practice of accepting false allegations (especially of PAS).

Once an attorney has alarmed a judge to this, the targeted parent is pathologized, criminalized, and the children are sent for "deprogramming therapy" by the play-along therapists who curry favor for the rolling referrals (*and lucrative fees and insurance billings which accompany such protracted litigation*). Once the children are put into deprogramming therapy and the nurturing parent supervised, the players report their numbers and the court garners more funding - showing such an increased trend of "needy high conflict families". That makes these attorneys good team players in the eyes of the judges, because the judges (*in their administrative role*s) are pressured to look good in their numbers. Ergo, the judges continue to reward the repeat appearances of those lawyers who help the numbers, in a very biased way. It pretty much amounts to custody rigging.

The DOJ funding level was $2M for 2006, 2007, 2008 and then all of a sudden doubles to $4M in 2009 (*the contracts are for three year periods - as was discovered*). With the increased funding, the court's decision show an uptick in wrongful imprisonment, more pressing by attorneys for criminal sanctions of "wayward parents" who don't stick to the letter of unlawful orders, and law enforcement is increasingly used as a bullying tactic to intimidate protective parents or traumatized parents who cannot figure out what is happening to them in this lawless Family Court system.

2011-2012 US DHSS TANF Budget

The $4 **B**illion budget for TANF (Temporary Aid to Needy Families) comprises just one quarter of the two percent of the nearly $890 billion in the DHHS - Administration for Children and Families (ACF). So while this report is looking at just this palpable slice of funding without any oversight, accountability or performance measures, the RI General Assembly should be aware it is only one slice of a very large pie that Rhode Island participates in, while being victimized as a small state with no fiduciary or performance oversight by the federal government - or our own.

The Temporary Aid for Needy Families (TANF) budget is the subject of scrutiny in a later chapter of this report as well as in the 75-page detailed powerpoint presentation by Cobblestone Strategies /F4J to many of our US Congressional offices. Rhode Island needs to extricate from the complex legal, fiduciary and performance complexities of this program and find a way to take care of its own citizens. As a small example from many all over the appropriations bill, the $2 million of federal money at the state police and the $3 million in federal programs of Family Court can be offset in the budget by closing down the Family Court and its $17 million of general revenue budget. Then, reapportion a part of it to supplement the new bridges to community justice (as a RI Judicial Reform Project) in our superior and district courts along clear lines of due process, written procedures and judicial accountability *(and get rid of the abuse of discretion delegated to psychologists and attorneys or other auxiliaries to run peoples lives, using judges to write the orders)*. There are plenty of other places to offset funding as well if the "mandatory programs" are truly audited about what is going on. All these contractors to run all these <unnecessary> federally mandated programs - also burden our budget.

2011-2012 UN Report of Women's Justice

The United Nations came out with a report on *the Progress of the World's Women* . "It outlines ten recommendations to make justice systems work for women. They are proven and achievable and, if implemented they hold enormous potential to increase women's access to justice and advance gender equality. Although equality between women and men is guaranteed in the Constitutions of 139 countries and territories, inadequate laws and implementation gaps make these guarantees hollow promises, having little impact on the day-to-day lives of women. In many contexts, in rich and poor countries alike, the infrastructure of justice - the police, the courts and the judiciary -is failing women, which manifests itself in poor services and hostile attitudes from the very people whose duty it it to meet women's rights." (see the EN-Executive Summary here in @1)

The report shows that "... well-functioning legal and justice systems can be a vital mechanism for women to achieve their rights. They can shape society by providing accountability, by stopping the abuse of power and by creating new norms. The courts have been a critical site of accountability for individual women to claim rights and to set legal precedents that have benefitted millions of others. This report highlights the ways in which governments and civil society are working together to reform laws and create new models for justice service delivery that meet women's needs. It demonstrates how they have risen to the challenge of ensuring that women can access justice in the most challenging of situations, including in the context of legal pluralism and during and after conflict."

The full 168-page report is here in @2.

Conclusions

Earlier this past year, California published the results of its audits on two counties in the state Superior (Family) Court system (see rifoja24: 2011 California Audit Report). The federal drivers which run a large state like California are the same ones that drive our small and struggling state of Rhode Island. That 112-page audit report is here in @4. They find performance failings, abuses of children and families, fiduciary malfeasance, and all sorts of due process violations and activities which harm individuals and families. The State of Rhode Island can expend time and money and drag out a similar audit process, or we can leverage the insight California so willingly provided to the rest of the nation about these mandatory programs and the way in which they fail our communities. Most recently, in July 2011, San Francisco judges have taken a bold administrative step to shut down 25 courts (see: rifoja15: San Francisco to close 25 courtrooms, layoff 200)

The State of Rhode Island does not need the federal government to tell us how to take care of our people. We can say ***no*** to the bloated DHHS pork barrel, and ***no*** to the collateral mandates, and stand out in Washington DC as a state that refuses to be a part of the national problem. We must find ways to save our own state some taxpayer money and put people back to work. Some state has to be the first to say "no thank you - we can take care of our own" and pave the way. Any good reform starts with one who will stand, and then others will follow. We should be small enough, agile enough, and smart enough to trim the fat and put all our bright minds who have no work onto the problem of creating process maps, performing audits, posting the public contracts on the web, running judicial accountability retreats, putting our government on furlough and fixing the problem. It can be done. Just like the Department of Transportation had to route traffic around the construction and open the new Washington Bridge, through a great deal of very public communication, we need to route litigants with clear signs, lots of communication, public announcements, web postings, town hall meetings, and a clarion call from our leadership about why we are doing it, what the vision is, how it will better serves us and that it will save taxpayer money. We need a list of unemployed information

technology specialists, business mangers with process mapping experience, accountants and technicians who can go in and analyze the whole thing. Reapportion the staff, eliminate redundancies, list all the contracts and put a call out to community and faith based organizations who might be able to provide those services on a volunteer or reduced fee basis as needed and not funded by the state or federal government ~ just private donations or per their own budgets, mission or charter. We have so many untapped talented individuals who can solve these problems, yet we spend millions oppressing people out of their homes, jobs, their families, and their money. We have more than unfunded pension liabilities facing us. We have the human toll of a pervasive futility when we live in a society that is unjust, unfair, or unaccountable - and which shows no measure of transparency or honesty or civility. This will only lead to civil unrest and eventually to a form of vigilante justice that will be a far harder outcome to recover from - then a deliberate closure of the Family Court System and all its harmful practices will bring.

Cross References:

references (2)

rifoja24: 2011 California Audit Report

rifoja15: San Francisco to close 25 courtrooms, layoff 200

Attachments:

1. 2011-2012EN-ExecSummary-Progress-of-the-Worlds-Women1.pdf (423 KB)
2. 2011-2012-EN-FullReport-Progress.pdf (9.6 MB)
3. 890BIllionBudget.png (49.7 KB)
4. 2011 California Audito Reports Superior Courts.pdf (1.6 MB)

Canons and Presumptions in Courts

policy25: August 27, 2011 6:45 AM, Posted and Edited by Patrice Livingston

Roman Court and the Canons of Positive Law explains how the courts do what they do. It is all about the private oaths the courts take and the rebuttal of the presumptions in these canons taken directly from the English translation of the original latin:

the 12 Canons are:

- (i) public record
- (ii) public service
- (iii) public oath
- (iv) immunity
- (v) custody
- (vi) presumption of summons
- (vii) presumption of court of guardians
- (viii) presumption of court of trustees
- (ix) presumption of government acting in two roles as executor and beneficiary
- (x) presumption of executor De Son Tort
- (xi) presumption of incompetence
- (cii) presumption of guilt

Canon

A **Roman Court** is a Forum for the exclusive private business of a Law (Bar) Guild sanctioned by the Roman Cult, also known as the Vatican, in which members of the guild presume certain roles on behalf of the "government" in order to make profit for the guild and its members through direct asset seizure and the commercialization of various securities, bonds and bailments.

Canon

The meaning and source of the word "court" in respect of Roman Court is derived from the Latin word *cautio* meaning "securities, bond and bailment" as the primary commercial business of ancient Roman Cult sanctioned law guilds since the 13th Century.

Canon

In order to make “guild” money, called “Guilt” or “Guilty”, the Private Bar Guilds normally oversee a unique hidden trust for each controversy or “suit” that comes into the private Roman Court. Any bonds that are generated, called “Guilt bonds” are connected to the hidden trust, which the private Bar Guild members are sworn to deny exists

Canon - No Rule of Law

A Roman Court does not operate according to any true rule of law, but by presumptions of the law. Therefore, if presumptions presented by the private Bar Guild are not rebutted they become fact and are therefore said to stand true. There are twelve (12) key presumptions asserted by the private Bar Guilds which if unchallenged stand true being *Public Record, Public Service*,

*Public Oath, Immunity, Summons, Custody, Court of Guardians, Court of Trustees , Government as Executor/*Beneficiary, Executor De Son Tort, Incompetence, and *Guilt*:

(i) *The Presumption of* ***Public Record*** is that any matter brought before a lower Roman Cours is a matter for the public record when in fact it is presumed by the members of the private Bar Guild that the matter is a private Bar Guild business matter. Unless openly rebuked and rejected by stating clearly the matter is to be on the Public Record, the matter remains a private Bar Guild matter completely under private Bar Guild rules; and

(ii) *The Presumption of* ***Public Service*** is that all the members of the Private Bar Guild who have all sworn a solemn secret absolute oath to their Guild then act as public agents of the Government, or “public officials” by making additional oaths of public office that openly and deliberately contradict their private "superior" oaths to their own Guild. Unless openly rebuked and rejected, the claim stands that these private Bar Guild members are legitimate public servants and therefore trustees under public oath; and

(iii) The *Presumption of* ***Public Oath*** is that all members of the Private Bar Guild acting in the capacity of "public officials" who have sworn a solemn public oath remain bound by that oath and therefore bound to serve honestly, impartialty and fairly as dictated by their oath. Unless openly challenged and demanded, the presumption stands that the Private Bar Guild members have functioned under their public oath in contradiction to their Guild oath. If challenged, such individuals must recuse themselves as having a conflict of interest and cannot possibly stand under a public oath; and

(iv) The *Presumption of* ***Immunity*** is that key members of the Private Bar Guild in the capacity of "public officials" acting as judges, prosecutors and magistrates who have sworn a solemn public oath in good faith are immune from personal claims of injury and liability. Unless openly challenged and their oath demanded, the presumption stands that the members of the Private Bar Guild as public trustees acting as judges, prosecutors and magistrates are immune from any personal accountability for their actions; and

(v) The *Presumption of* ***Summons*** is that by custom a summons unrebutted stands and therefore one who attends Court is presumed to accept a position (defendant, juror, witness) and jurisdiction of the court. Attendance to court is usually invitation by summons. Unless the summons is rejected and returned, with a copy of the rejection filed prior to choosing to visit or attend, jurisdiction and position as the accused and the existence of "guilt" stands; and

(vi) The *Presumption of* ***Custody*** is that by custom a summons or warrant for arrest unrebutted stands and therefore one who attends Court is presumed to be a thing and therefore liable to be detained in custody by "Custodians". Custodians may only lawfully hold custody of property and "things" not flesh and blood soul possessing beings. Unless this presumption is openly challenged by rejection of summons and/or at court, the presumption stands you are a thing and property and therefore lawfully able to be kept in custody by custodians; and

(vii) The *Presumption of Court of* ***Guardians*** is the presumption that as you may be listed as a "resident" of a ward of a local government area and have listed on your "passport" the letter P, you are a pauper and therefore under the "Guardian" powers of the government and its agents as a "Court of Guardians". Unless this presumption is openly challenged to demonstrate you are both a general guardian and general executor of the matter (trust) before the court, the presumption stands and you are by default a pauper, and lunatic and therefore must obey the rules of the clerk of guardians (clerk of magistrates court);

(viii) The *Presumption of Court of* ***Trustees*** is that members of the Private Bar Guild presume you accept the office of trustee as a "public servant" and "government employee" just by attending a Roman Court, as such Courts are always for public trustees by the rules of the Guild and the Roman System. Unless this presumption is openly challenged to state you are merely visiting by "invitation" to clear up the matter and you are not a government employee or public trustee in this instance, the presumption stands and is assumed as one of the most significant reasons to claim jurisdiction - simply because you "appeared"; and

(ix) The *Presumption of* ***Government acting in two roles as Executor and Beneficiary*** is that for the matter at hand, the Private Bar Guild appoint the judge/magistrate in the capacity of Executor while the Prosecutor acts in the capacity of Beneficiary of the trust for the current matter. Unless this presumption is openly challenged to demonstrate you are both a general guardian and general executor of the matter (trust) before the court, the presumption stands and you are by default the trustee, therefore must obey the rules of the executor (judge/magistrate); and

(x) The *Presumption of* ***Executor De Son Tort*** is the presumption that if the accused does seek to assert their right as Executor and Beneficiary over their body, mind and soul they are acting as an Executor De Son Tort or a "false executor" challenging the "rightful" judge as Executor. Therefore, the judge/magistrate assumes the role of "true" executor and has the right to have you arrested, detained, fined or forced into a psychiatric evaluation. Unless this presumption is openly challenged by not only asserting one's position as Executor as well as questioning if the judge or magistrate is seeking to act as Executor De Son Tort, the presumption stands and a judge or magistrate of the private Bar guild may seek to assistance of bailiffs or sheriffs to assert their false claim; and

(xi) The *Presumption of* ***Incompetence*** is the presumption that you are at least ignorant of the law, therefore incompetent to present yourself and argue properly. Therefore, the judge/magistrate as executor has the right to have you arrested, detained, fined or forced into a psychiatric evaluation. Unless this presumption is openly challenged to the fact that you know your position as executor and beneficiary and actively rebuke and object to any contrary presumptions, then it stands by the time of pleading that you are incompetent then the judge or magistrate can do what they need to keep you obedient; and

(xii) The *Presumption of* ***Guilt*** is the presumption that as it is presumed to be a private business meeting of the Bar Guild, you are guilty whether you plead "guilty", do not plead or plead "not guilty". Therefore unless you either have previously prepared an affadavit of truth and motion to dismiss with extreme prejudice onto the public record or call a demurrer, then the presumption is you are guilty and the private Bar Guild can hold you until a bond is prepared to guarantee the amount the guild wants to profit from you.

see original source for this article at: http://avalon.law.yale.edu/18th_century/paris.asp

Cross References:

emailed by (6)

pvl108: Canons and Rebuttable Presumptions in Courts
sparkki4: Canons and Presumptions in Courts
pvl102: Emailed Articles
pvl91: Emailed Articles
policy27: Canons and Presumptions in Courts
pvl90: URGENT-THIS NEEDS TO BE PUBLISHED: Canons and Presumptions in Courts


Change takes
COURAGE

What is the Rule of Law?

legal54: August 28, 2011 12:16 AM, Posted and Edited by Patrice Livingston

The rule of law is fundamental to the western democratic order. Aristotle said more than two thousand years ago, "The rule of law is better than that of any individual." Lord Chief Justice Coke quoting Bracton said in the case of Proclamations (1610) 77 ER 1352

> "The King himself ought not to be subject to man, but subject to God and the law, because the law makes him King".

The rule of law in its modern sense owes a great deal to the late Professor AV Dicey. Professor Dicey's writings about the rule of law are of enduring significance.

The essential characteristic of the rule of law are:

1. The supremacy of law, which means that all persons (individuals and government) are subject to law.
2. A concept of justice which emphasises interpersonal adjudication, law based on standards and the importance of procedures.
3. Restrictions on the exercise of discretionary power.
4. The doctrine of judicial precedent.
5. The common law methodology.
6. Legislation should be prospective and not retrospective.
7. An independent judiciary.
8. The exercise by Parliament of the legislative power and restrictions on exercise of legislative power by the executive.
9. An underlying moral basis for all law.

Cross References:

commented on by (1)

legal55: re: What is the Rule of Law?

2011-12 TANF Funding Report to Congress

cs2: August 2, 2011 10:04 PM, Posted and Edited by Patrice Livingston

Introduction

In a difficult economy, state and federal agencies tighten funding and tax payers are asked to pay more and also sustain cuts in vital services to schools, neighborhoods, community clinics, etc. Parents struggle with jobs, food, clothing shelter, childcare and access to medical care. Yet, Americans are forced to collectively invest $4 Billion in the very irresponsibly run TANF (Temporary Assistance to Needy Families) programs which promote fraud, lack accountability, and protract high conflict litigation or bogus interventions in lower courts throughout the 50 states. Good parents are exploited, economically impoverished and emotionally traumatized while their kids are placed in supervision, put on welfare, medicated in foster care system and outright taken from them on trumped up charges which allow the state to usurp custody and war against the constitution.

Federal Drivers that must be Eliminated:

- funding to ACF child support incentives, and gender based funding to child support agencies
- AV programs based on psychological evaluations and false charges
- state and federal employees who have conflicts of interest or bias within the unaudited OCSE program
- federal control of state sovereignty for the care of its citizens

OCSE programs require the courts to accept funding mandates that usurp judicial authority and unlawfully allow administrators the ability to establish, modify or enforce court orders out of jurisdiction. When the Title IV-D child support agency is involved in a case, the attorney represents the interests of the county to collect money for the county. They do not represent the family. For every dollar of child support collected, the federal government rewards a state with two dollars. This motivates the county to prosecute parents and to take their property. Only parents have the constitutionally protected right to represent the legal interests of their children. So when the county takes the property from a child's parent, this makes the county (or the state) an adversary of the child - and not at all an entity working in the best interests of a child, as it is so often claimed.

OCSE has no interest in, nor are they required to, provide parents any due process protections. Courts have incentives to ignore ramifications of such abuses of due process while OCSE administrative orders come with criminal penalties. The revocation and seizure of property along with the loss of liberty on a noncustodial parent, without notice or approval from the custodial parent or even the court, is unlawful and unethical. OCSE staff don't even bother to get on the court's docket, review the court file or speak to the judge. Also, the disclosure of the separate OCSE file to the parents is not required, even as compliance and enforcement of the contents of that file and its unlawful orders are mandated on the individual. Such compliance actions are exclusively determined via abuse of discretion by OCSE.

These programs lack meaningful performance measures and accountability standards. As a result, it has led to massive and wide spread fraud and extortion of parents through the child support system and the family courts. The HHS Inspector General report shows that instead of distributing the child support to the children, states held the funds and collected interest. Then they deliberately failed to properly account for or disburse the money, causing frustration and the appearance of false compliance to the custodial parent and to the family court whom the custodian tries to get help of a sort which never arrives.

Furthermore, when funds are collected by the state and computer or other glitches and delays make it so the recipient is not located within three years the funds are considered "undistributable". Many loose accounting practices make it easy to move money around to expired location dates in order to reap the 2/3 and 1/3 division of money between the federal government and the state to use as they please. This gives rise to a vested pecuniary interest which maintains a deliberate "set up to fail" system as there is no real track of the money. Instead of fixing the problem, the OIG just stopped auditing the states and privatized the industry. The HHS Inspector General Report demonstrates that the states deliberately withheld over $150 Million of paid child support from children between 1998-2007 and the problem has grown worse.

A 2005 OIG audit of the Massachusetts undisbursable funds revealed that $5M of it was actually being held by the state pending resolution of family court litigation. While litigation drags out, the state collects interest on the held funds. If they get litigation past the three years, the money goes to the state and the parents are put on welfare which helped the state to justify more TANF funding from the federal government. Tax payer intercept programs in some states were rigged to deprive the child's custodial home of the child tax benefits. Instead the tax benefit is given to the nonpaying noncustodial parent so it could be garnished and then sent back to the state as part of the so-called "compromise of arrears".

For every three dollars spent on paternity establishment, court orders, modification and child support enforcement, the local agency only pays one and the federal government pays two. Also, private collection agencies charge a fee to the custodial parent upwards of 35% and the employees are not bonded. Agencies like Maximus and Support for Kids have been widely criticized for hiring convicted felons who steal from clients and use the social security numbers to illegally collect benefits.

Federally Funded Fraud

In 2002, a NJ Medicaid fraud ring run by eight Maximus employees was busted as they were caught having fraudulently enrolled themselves to siphon money out of Medicaid. Maximus Inc has been awarded $684M in government contracts and $226M of it is with HHS. In 2007, the DOJ settled $42M in phony Medicaid bills via the Washington DC foster care system with Virginia based Maximus because 78% of their billing claims between 1999-2005 were found to be fraudulent. When it was resolved, DC awarded Maximus another $1.9 million contract.

In 2007, Maximus paid $6.2 million to the State of CT in connection with claims which alleged enrollees were ineligible for public medical programs. In 2008, Maximus agreed to pay the Texas Health and Human Services Commission $40 million to settle breach of contract claims. In 2010 an audit performed by the HHS Inspector General's Office revealed that Maximus had double billed the state of New Jersey and failed to report income which totaled over $9.6 million.

In 2010 the State of Illinois barred Maximum CEO David Goclowsi frmo doing business in the state when it was discovered he was Loan Brokering without a license. From 1994 until Dr Anthony' Laine's death in 2010, he alleged that Maximus employees created phony child support orders for fabricated children from a court that does not exist in the fictitious town of Maricopa, Tenneessee. The mother of his children had never filed for child support, nor did she receive the money. Instead, Maximus used these orders to stalk, harass, and garnish all his wages and repeatedly jail Dr. Laine.

In 2004 a Maximus employee in Hawaii pleaded guilty to embezzlement, forged client endorsements and having deposited the checks into a bank account for her own personal benefit. After that contract was revoked, Maximus received a $400 million contract to oversee New York's $45 Billion Medicaid program. In 2011, Wisconsin awarded Maximus a $21 million contract for its Title IV-E adoption programs.

In 2009, the US Post Office barred the private corporation Child Support Services of Atlanta from utilizing its services when it discovered that workers posed as government agents to dupe parents. They coerced them into child support payments, kept the money and refused to allow the parents to cancel their contracts. At the time, the company was doing business in 13 states under various names which included the words "child support". The US Post Office also barred a Florida based collection agency in response to consumer complaints that a private corporation called State of Georgia Child Support was posing as the state and extorting parents to make payments which were never disbursed to children with no accounting.

In 2009, the Texas Attorney General's office charged 13 child support service contractors involved in running a child support fraud ring which stole $18 million from Texas taxpayers and children.

In 2009, the Virginia Attorney General's office charged Texas based Support Kids Inc with funneling more than $800,000 Inc to itself instead of the State as required.

In 2009, the Washington State Office of Child Support Services was required to pay one father $23,000 in child support the agency garnished from him that he never owed.

Since its inception in March 2007, Medicare Fraud Strike Force operations in nine districts have charged 1,000 defendants that collectively have billed the Medicare program for more than $2.3 billion. In addition, HHS's Centers for Medicare and Medicaid Services, working in conjunction with the HHS-OIG, are taking steps to increase accountability and decrease the presence of fraudulent providers.

Miami resident Lawrence Duran, the owner of a mental health care company, American Therapeutic Corporation (ATC), was sentenced today to 50 years in prison for orchestrating a $205 million Medicare fraud scheme, announced the Department of Justice, the Department of Health and Human Services (HHS) and the FBIOn April 14, 2011, Duran and Valera pleaded guilty to all counts charged in a superseding indictment, which was unsealed on Feb. 15, 2011. "For years, Mr. Duran stole millions of taxpayer dollars by defrauding Medicare and preying upon vulnerable citizens suffering from Alzheimer's disease, dementia and substance abuse," said Assistant Attorney General Lanny A. Breuer of the Criminal Division. "Instead of providing patients with the treatment they needed, Mr. Duran and his co-conspirators used them as props to fill their fraudulent mental health centers. As a further insult, Mr. Duran created an organization to lobby Congress for additional funds to support the mental health services his fraud scheme purported to provide.

To learn more about the HEAT team, go to: www.stopmedicarefraud.gov.

Courts and Support Agencies Fuel Litigation

The courts and support agencies do not help expedite resolutions. Instead they use false claims of fatherhood involvement programs, or Access and Visitation (AV) grants to financially reward states who routinely give custody to the least fit parent or strip custody altogether of nurturing parents. These programs were established to foster increased child support payment and healthy involvement of fathers, and have instead evolved into the $4 Billion TANF funded family court litigation industry which thrives on bringing families to the brink of destruction.

The states need to break free from the tyrannical purpose of these programs which:

- creates a false need for federally funded litigation promotion programs

- recruits the middle class to join the TANF rolls and pay supervision fees, private contracts or be garnished
- requires the lower courts to increase their dockets to maintain their own funding and to do so by ignoring the real needs of the child and simply find in favor of the most profitable parent (which has many forms)

The programs falsely sensationalize images of family values, and evoke sentiments of helping those in need with diversity pictures all over their materials. Yet, the OCSE studies demonstrate that families are not the beneficiaries. The families are harmed by these compulsory and extortion based programs which fail to consider the safety, needs, and desires of the children or the parents (custodial, noncustodial, or joint custodians).

These corrupt programs conceal the fact that children are sometimes trafficked into the foster care system needlessly. Even worse, the IV-D commissioners have a direct conflict of interest because they fail to disclose to the parties that they are county employees and that the county is a party to the case. Unlike the judges who have judicial canons and an oath of office, the commissioners are administrators of the court. They have no transparency and no impartiality standards the way a judge does in a court of record. They are simply county or state employees who are free to communicate *ex parte* with the parties and any other state or municipal employee to run things as they wish.

In San Francisco the judges authorize program funds to themselves. The presiding judge and other court officers sit on the board of non profits which "serve" the courts which in turn then order litigants to use those services. The courts have liens on the nonprofits which are run by the courts. This means that some or all of the federal funds comes back to the court although it is wholly unaccounted for - and this is common practice around the nation.

In 2010, Court officials in Marin County, CA **burned** mediator files rather than comply with state audits that would disclose their federally funded practices. Many of these children were deliberately taken from good homes and placed with pedophiles, or in an abusive parent's care or even put into foster care. <u>These children now have no means of escape because the evidence which proves who harmed them, and how, is now gone.</u>

The lack of transparency and accountability has led to wide spread financial fraud and human rights violations. Since mothers receive custody 85-90% of the time, the federal government spends $4Billion per year on father focused, non-means tested programs which have no eligibility requirements and no accountability. Fathers are court ordered to enroll. An agency or court's abuse of discretion determination of "noncompliance" [e.g. the refusal to accept TANF assistance] has these fathers facing jail time and seizure of their assets. In order to continue to receive funding, these anti-child programs coercively require the courts and other agencies to revoke the mother's parental rights, and so also child support, in order to cede it to the state.

The effect of this mandate is that courts, child support agencies and nonprofits serving the courts engage in fraud and extortion to access the funds. Grant recipients are paid to reduce support payments to custodial mothers, then take custody from mothers via protracted coercive litigation. The programs are not intended to benefit the children whose needs are never considered. The state requires the parents to engage in endless extortion based court programs which destroy them emotionally and financially. These programs should not be confused with practitioners and communities which do help parents (often fathers and also children along with mothers). With the state run programs and conflict of interest agencies, every member of the family loses out as follows:

1) courts and child support agencies use "compromise of arrears" and child support incentive programs to extort fathers who owe child support. They are told that they can elect between (a) initiating federally funded custody battles or (b) face criminal

penalties on their child support debts

2) Initially fathers seem to benefit because no matter how wealthy they are, they are enrolled in TANF programs which provide them with:

- free lawyers and court experts
- exclusive *ex parte* access to the judges and commissioners who preside over their cases
- housing, medical care, cash incentives

3) Compromise of arrears programs actually hurt fathers after they are enrolled because they cannot leave the "program", or stop litigating, or they risk criminal penalties which hang forever over them

The states get around the illegal use of ARRA funds and AV grants by using SIP (special improvement projects) grants. This allows the state to waive the laws which forbid this practice so that people like Jessica Pearson can turn the child support office in their state into an experimental laboratory to find ways to feed off the OCSE cash cow. see NCP report in @1 here

2006 Evaluation of Access and Visitation Programs - Participant Outcomes

Programs in three different state were selected fro each of the three major program types:

- mediation: Missouri, Rhode Island, and Utah
- parent education: Arizona, Colorado and New Jersey
- supervised visitation: California, Hawaii, and Pennsylvania

Please note that the views of the child and of the custodial parent are completely omitted from ALL of these studies. It is replete with shoddy record keeping and should scare every parent who is eliminated from their child's life by these bogus programs. As a result of these programs, many of the parents with 50/50 custody have their custody REVOKED for no valid reason, their timeshare goes to 0%, they are removed form the program rosters and then added back on as the NCP (noncustodial parent) and given a mere one hour a week or some 5% timeshare (10% when the state wants to show an increase). The only requirement of the states to receive AV grants is that they show the NCP has been given increased time. Usually, the mom is the one who loses custody because more TANF kickback incentives are available to fathers (and hence to the state) via these bogus programs.

It is fraudulent. There is no evidence to suggest that these statistics represent anything except millions of dollars in resources which should have gone to the child, and instead were diverted to extortion based TANF programs. The report states many increases. Many? Many what? NCPs or CPs? What was the rate of fit parents that were shut out of their child's life [*who now resides with the less fit parent stuck in high conflict litigation]* as a result of their inability to pay for the supervised visitation services they never needed in the first place? What about the child and the noncustodial parent who does manage to pay for supervised visits with no exit plan? Their lives are vastly deprived of resources, opportunities and happiness.

When they discuss 25% improvement in the parent cooperation that is very deceptive when it is considered that (1) the views of the custodial parent and child were not considered (b) 75% of the parents are not accounted for (c) 100% of these families experience severe loss of resources and trauma associated with expensive, protracted litigation that is a direct result of these programs at the start. Do the participants even know that they are enrolled in fatherhood programs? What did the moms and kids think given that the purpose of AV grants are to increase time with fathers and make mothers have supervised custody? These

are parents who are not made aware of their rights and responsibilities and who would likely benefit from a genuine mediator if the TANF program had not extorted them.

And then the report concludes that: *"Child Support agencies should refer NCPs to State Access and Visitation programs"*. Really? On what basis? Who benefits from such action besides the TANF racket? The states should pass local legislation that severs collateral support/custody mandates because spending time with your kids should be voluntary, decided as equitable in court, and not be tied to child support performance outcomes. See the Wisconsin report (p.23): *This one did absolutely nothing for noncustodial mothers except steal their children.*

The 2004 GOA Report on Child Support Enforcement details the fact that the States continued to deliberately engage in illegal "Undisbursable arrears" scams which deprived children of nearly $670 million per year, even after the prior GAO and IOG reports which exposed them and promised reform. Since the States' record keeping was so poor, the OCSE could not accurately track or determine amounts of arrears so were likely vastly under estimated. Since the federal government failed to set forth proper definitions of what constitute "undisbursed" collections, the States themselves were allowed to define to their own advantage how much of our children's money it would conceal in its coffers.

Federal law, some state policies, and inaccurate or missing information were the underlying causes of nearly all types of undistributed collections. State agencies determined how long they held collections from joint tax refunds and if they held collections received before they were due.

The States intercept parents tax refunds, then refuse to disburse it to the child until 180 days had passed:Federal law allow collections intercepted from joint tax refunds to be held for up to 180 days and in response to GAO's survey, 34 state agencies reported holding them for 180 days. Missing or inaccurate information, such as invalid addresses, also leads to undistributed collections. Based on state agencies' survey responses, GAO determined the median value of the undistributed collections from joint tax refunds was about $1.8 million and the median valued of four other types of undistributed collections exceeded $350,000.

OCSE made minimal efforts to help families received their tax refunds from the State sooner, than collected their 66% share on the interest:

OCSE has provided some assistance to help state agencies reduce their undistributed collections. However, the Department of the Treasury has not provided OCSE information that would allow state agencies to distribute collections from joint tax refunds to families sooner. OCSE makes false show of an effort.

This must explain how one person had the department of treasury sign off on the other parent's check for $200k to make it look like he paid the IRS. In fact, the check was deposited into an account labeled SFC. What a great way to use the federal government as a shell corporation to hide money from your family.

HHS REPORT: The Story Behind the Numbers FY 2007

In reference to the HHS short report here in @2, it reveals that in 2007, the dollar amount of "undistributable" arrears nearly doubled, yet the rate of collections also went up. Also, the percentage of the total amount of collections which represented

"undistributable" arrears went down. This means they artificially inflate child support collection rates, keep the money for interest, then give it back when the family case is over. The report also shows that in 2007 they changed the law to make it so that states did not have to classify the money they are holding on account of family law dispute resolution outcome as "undistributable".

This means that since the state gets a federal dollar for every two they collect, its easy to inflate the rolls by taking people on and off support, and keeping the custody cases open so they don't have to report. Between 2005-2007 the Office of the Inspector General audited the child support services programs of approximately 30 states who held back hundreds of millions of dollars in child support from the children. This money was virtually untraceable and largely unaccounted for. Undisbursable arrears occur when child support is collected and the payee cannot be found. In such an instance, the money is returned to the payor.

It is OCSE policy that when undistributed arrears were discovered, the OIG ordered the States to give 66% to the federal OCSE office and allowed the state to keep the remaining 34% for the state. This policy lacks all accountability or consequence for such fraud. History has shown that this policy merely encourages the federal government and the states to engage in the fraud and to pocket the money. The purpose of these audits was allegedly to ensure the families were able to get the support to them with help from the state, and not to be burdened by the states own collection and disbursement challenges. The problems have continued to worsen and there are still no protocols or procedures in place to define, identify or track these monies. The reports about the states can be found at: http://oig.hhs.gov/reports-and-publications/oas/acf.asp

Note: there is another whole chapter on this child support problem related to identity theft which could comprise an additional deleterious report across all states and programs in the nation. It is no surprise that there are so many "address" problems and inability to locate the payee when the checks are being routed, after first being held.

The $80 billion report (112 pages) of HHS budget allocations is here in @3

Conclusion

In 2011, we see why the current Congress has inexcusably ignored the pleas of desperate hard working parents in this fraudulent debt ceiling deal. First the federal government doubled the budget for these DHHS pork barrel projects and now will choke the states on a national debt crises with little time to respond with their own local solutions. The states need solutions which would make them NOT dependent on such fraudulent federal grants that break their communities, tear down families and harm children.

The state needs to reject all Family Court funding from the federal government and refuse to be a part of the national debt crises. The state needs to Abolish its Family Courts and streamline its judicial processes for maximum efficiency and restoration of families in need of restructuring. The state needs to recognize the power of extended family, alternative and creative visitation and community or faith based solutions to local problems. There are plenty of people to pitch in and help without the middle man stealing everything, including the children.

The state needs to reject the federal governments prescriptions about state Sovereign Rule, local statutes, and our ability to care for our own. We can do it. Get the Family Court out of the family. Ge the federal government out of our state courts. Reduce our state government and enact emergency audits and closure of government services that are crumbling under their own fraud, waste and abuse.

In order to promote democracy and protect American families from government abuse, the US Constitution attempts to ensure balance of powers by division into the executive, legislative and judicial branches. The framers specifically intended to create a system of checks and balances which explicitly forbids the legislative branch from usurping the powers of the judicial branch to issue decrees. The judicial branch is forbidden to loan their power to decide matters of equity and law. As the forefront of these ideas was the concern that such an abuse of power could have catastrophic effects on our system of democracy and deprive citizens of life, liberty and property without due process.

We need to re-establish our constitution and so also our government. We need to have reliable leadership for that success. The American people do not like what is being done to our country and our communities. We have become demoralized ~ although that is unnecessary. We are supposed to have the vote, have the right to govern ourselves, and be able to protect ourselves as we find our courage to build strong lives of our own making. The people need leadership which is not going to betray us.

We need leaders that will take the kinds of measures that will help us get out of this mess. We have to restore the confidence of the American people. We must save ourselves and the way we do that is by finding a leadership that is willing to effect this transformational effort and which will find the strength and the will to act. We need to progress, not collapse in futility. Progress is not a disaster. Lack of progress is a disaster.

Every person who is really decent has always wanted their children to have better lives than they have had. That has been the core characteristic of the American population. Every achievement ever made, lives on to benefit the generations which follow. Our desire is that our lives will have meant something to those who come after us. That is the basis for human morality. We are builders. We love humanity and we believe that our life has to mean something for the benefit of the generations which come later. That is the American idea, really. Our struggle for freedom, and our greatness, has resided in our special devotion in most parts of our life to the taking people ***in*** *to our country.* Giving them an opportunity for a better life than they had elsewhere. Adopting them as our people. Taking pride - even as we go to death - a deep pride in the fact that we are creating something better than what we had for those that come after us. And it is our pride and our sense that we are justified in living which motivates our best decisions.

That we are something good in this system. That we are part of a shared humanity.

Cross References:

emailed by (1)

rifoja12: 2011-12 TANF Funding Report to Congress

referenced by (1)

policy43: Cut TANF Title IV-D programs which represent $4Billion of waste.

Attachments:

1. NCPreport.pdf (397.8 KB)
2. HHSFy2007CollectionsReport.pdf (82.2 KB)
3. 80Billion2012HHSBudget.pdf (1.4 MB)

San Francisco to close 25 courtrooms, layoff 200

rifoja15: August 7, 2011 4:25 PM, Posted and Edited by Patrice Livingston

By Paul Elias, Associated Press
Posted: 07/19/2011 12:33:03 PM PDT
Updated: 07/19/2011 12:33:04 PM PDT

SAN FRANCISCO -- The San Francisco Superior Court announced Monday that it's laying off more than 40 percent of its staff and shuttering 25 courtrooms because of budget cuts.

Presiding Judge Katherine Feinstein said the actions were necessary to close a $13.75 million budget deficit caused by state budget cuts. She said the cuts mean it will take many more hours to pay a traffic ticket in person, up to 18 months to finalize a divorce and five years for a lawsuit to go to trial.

"The civil justice system in San Francisco is collapsing," Feinstein said.Some 200 of the court's 480 workers will be let go by Sept. 30, including 11 of 12 commissioners who preside over a variety of cases. And she said it could get worse if optimistic revenue projections don't materialize by January.

"The future is very, very bleak for our courts," Feinstein said at a Monday press conference. Feinstein said criminal cases would remain largely unaffected because of constitutional guarantees of speedy trials. Every other type of court, though, is facing significant cutbacks. The San Francisco courts aren't the only courts facing cutbacks, only the most dramatic. The Judicial Council, which manages the judicial branch's budget, will decide Friday whether to cut funding of local courts by 8.8 percent or about $305 million. Other courts are considering unpaid furloughs for workers, shorter hours for clerks and other cost-cutting measures.

None are going as far as San Francisco, but the budget woes have caused discord within the judiciary.
The Alliance of California Judges was formed almost three years ago by judges unhappy with the Judicial Council's fiscal management. In particular, the Alliance is demanding administrators scrap plans for a new computer system projected to cost $2 billion to fully install state wide.

Instead, court administrators are proposing delaying the project for a year, which would save $100 million.

see original source pulled 07 August 2011 from: http://www.mercurynews.com/bay-area-news/ci_18507423?source=rss

Cross References:

commented on by (1)

rifoja17: re: San Francisco to close 25 courtrooms, layoff 200

referenced by (1)

policy4: Rhode Island Family Court Issues

Judicial Corruption-Judges Jailing Parents for Cash...

legal30: August 12, 2011 9:29 AM, Posted and Edited by Patrice Livingston

... it is all about money.

blog author writes:

An article caught my attention yesterday after I wrote a piece on the American Recovery and Reinvestment Act of 2009, coming out of Pennsylvania. I wanted to wait to see the poll results in the original article found at AOL News. (Source:AOL NEWS; Judges Accused of Jailing Kids for Cash; Orig Article; Feb. 11, 2009) The explanation offered in the article by prosecutors for their taking of over $2.6 million in kickbacks"was corruption on the bench." By the way, the polling results as of 8:45am Est at the above source states that Overall, only 10% of over 9,000 participants have faith in the justice system, while 67% say they don't. The rest have "mixed feelings." Not good for "public confidence" in the judiciary.

"They sold their oaths of offices to the highest bidders," Deron Roberts, chief of the FBI's Scranton office, said at a news conference Monday. (Source:AOL NEWS; 2 Pa. Judges to Plead Guilty to Public Corruption; Orig. Article; Jan. 27, 2009)

This corruption case aside, which affected thousands of minors, brings into question the kickbacks that are received for child support enforcement and the federally subsidized family court system. For every action taken on a case in a family court involving establishing child support orders, establishing paternity orders, and associated enforcement "services" a kickback is received to the state and local offices that trickle right back to the judge making the decisions. What is worse about these kickbacks in the family court system, is that everyone knows that this is happening.

Each branch of government is responsible for managing their own budgets, however the judiciary is unique in that it knows that for every dollar they exhaust in performing services under a Title IV-D contract that they will in essence receive two more dollars back. Judges, their employees, and other participants of these contracts are getting steep kickbacks from the federal government, which isn't much different than what the Pennsylvania judges are guilty of.

Let's take this a step further, because Michigan courts make it even more obvious than other states by using a judicial employee as an intermediary to perform all contractual services. These contractual intermediaries are known as "Friends of Courts" which come to conclusions that in nearly every divorce, separation, and custody action that a child support order is necessary and they make it very difficult to opt-out of these welfare programs. Michigan riddles the obvious kickbacks with conflict of interest issues that are written right into a block of statutes known as the "Friend of the Court Act." These programs and services that judicial employees are getting kickbacks for are nearly all mandatory and all work out to the benefit of the judicial budgets. The morale of the story is that the more people that go through the ringer, the more money the federal government pays to the State and Local decision-makers.

A final point about these various programs is that if the state manages to fail to distribute money after a year, known as " undistributed child support" the state gets to absorb it into their operating budgets as "program income." The entire system is riddled with inconsistencies, kickbacks, and conflicts of interest. Simply put, the program lacks any real government oversight because all branches of government are contracting with each other to get away with it.

Feds Obstruct Intact Families

Bullet points regarding how federal title iv funding obstructs equal parenting initiatives and intact families.

- Title IV-D of the Social Security Act creates an interest for the States to focus on financial gain from one parent over the other without encouraging joint cooperation for equal parenting.
- The current Title IV federal funding system encourages the States to focus programs on state revenue generation by increasing welfare rolls, increase child support orders, increasing removal of children from homes.

About ncpp

ncpp: National Coalition for Protective Parents Taking out Corruption in Carver County Minnesota Family Court/CPS and Foster Care System. Government Abuse IS Child Abuse for Profit. We The People... are no longer tolerating; TAXPAYER dollars (billions) used to separate, and financially demolish families.

see original source for this article at:
http://carvercountycorruption.wordpress.com/2011/07/22/judge-perkins-will-get-money-if-he-puts-banken-mother-in-jail-august-3rd-it-is-all-abo

$4Billion DHHS Budget Funds a Litigation Industry

cs11: August 8, 2011 9:25 PM, Posted and Edited by Patrice Livingston

Responsible Parenting is a Good thing for Communities (protracted litigation is <u>not</u>)

Cobblestone Strategies and Fathers for Justice have developed a 75-page powerpoint presentation from available state and federal documents so that individual legislators (either state or federal) can begin to understand the breadth and complexity of the issues. The problems are more than social, more than fiscal and more than legal. They are of a combinatorial challenge of bad practices in all areas, and at the intersection of multiple domains of public policy. The sound bites and tag lines are very misleading to the uninitiated. The underlying systems dynamics of a machinery that brings out the worst in human behavior, greed and misdeeds, needs to be understood in order to tackle it and replace it with solutions that would bring out the best in people's humanity and compassionate charity to help one another.

Fathers-4-Justice® US (F4J®) is a 501(c)(3) not-for-profit, volunteer army of fathers, mothers, grandparents, and others dedicated to fighting for truth, justice and equality in family law. It should not be confused with father supremicist groups or mother supremicist groups. The authors of this report honor and emphasize the important role an emotionally healthy, loving and financially responsible father and/or mother has in a child's life. The majority of American fathers (and mothers) do not abuse children. And ~ they would not knowingly engage in fraud. It is important to keep in mind that those are not the fathers which DHSS and the misguided fatherhood "Industry" promotes or caters to. A distinction must be made between supremicist ideas about mothering or fathering apart from FISCALLY driven motivations by government against parents which usurp legal rights and custodial care.

Safety, Performance Measures, & Compliance are all absent

Such Funding to States motivates local authorities to:

- abuse due process rights of parents
- extort parents to pay for visitation and legal fees
- causes economic hardship, not job creation
- creates emotional and psychological duress for kids

<u>SOLUTION</u>: Cut the Funding, Audit Programs, remove collateral mandates from Title IV-D: <u>Save RI $</u>
TANF provides incentives for increased conflicts in custody cases via placement of fathers into state run grant programs when actions are pending on them. Both parents are unaware of the way in which they are manipulated and extorted to serve financial incentives. CSE stalls on payments and causes the mothers to file for arrears and this provokes law enforcement actions because she is led to believe he didn't pay. Instead of expedited payments to families, the funds are held for interest bearing reasons and used to offset state child support administrative costs and capricious enforcement activities. Such a parallel justice system for child support with no oversight denies parental due process rights.

What Qualifies as Healthy or Responsible Activity in Marriage and Parenting?

- Do wealthy people know more about marriage?
- Would you trust HHS with your children and marriage?
- HHS has **no** monitoring
- HHS has **no** compliance process
- HHS has **no** performance measures or accountability
- CSE units abuse their power
- orders are not signed by a judge
- orders are not in the court's file
- DA has no jurisdiction over dad
- extortion or big brother actions like this are not the same as responsible oversight or help to needy families
- Citizens are being retaliated upon
- Audit done of DHHS Fatherhood Programs
- $150M in question was found to be TANF kickbacks
- abstinence only programs for fathers and married couples
- NO standard protocols to assess the programs or what constitutes "Responsible Fatherhood"
- NO accounting requirements found

This system leaves itself open to fraud through deliberate "set-up-to fail" procedures, enables the state agency to continue to collect the support money from the non-custodial parent and not send it to the custodial parent eventually keeping the money for the state's general fund. States are allowed to devise their own policies and methods to verify when a child support account payment is "abandoned", it means the custodial parent can not be located, or the checks are not cashed, or the mailed check is returned as undeliverable mail. These purported "abandoned" funds must be distributed back to the federal government.

Key Findings: Tax Dollars

The GOA Report concluded that:

1. $500 Million Unconditionally Given To Activists: Operating under a deadline that allowed HHS 7 months to award grants, HHS shortened its existing process to award Healthy Marriage and Responsible Fatherhood grants to public and private organizations. During this process, HHS did not fully examine grantees' programs as described in their applications, including the activities they planned to offer, and this created challenges and setbacks for grantees later as they implemented their programs. –P. 2
2. GOA Was Incapable of Accurately Assessing the Mess: In 2006, HHS awarded a total of 229 grants, of which 216 were Healthy Marriage and Responsible Fatherhood demonstration grants that provided direct services to participants. We surveyed all of these grantees. We did not survey the remaining grantees: those that either provided research or technical assistance, assisted organizations with developing fatherhood programs, or relinquished their grants.
3. Failure to Implement Uniform Standards, Policies, and Procedures: HHS uses methods that include site visits and progress reports to monitor grantees, but it lacks mechanisms to identify and target grantees that are not in compliance with grant requirements or are not meeting performance goals, and it also lacks clear and consistent guidance for performing site monitoring visits. –P.2
4. Embezzlement and Fraud Was Likely Vastly Under Estimated: Moreover, we did not survey organizations that received money from grant recipients to provide direct services, subawardees. Since making the initial awards, 4 organizations

have relinquished their grants, 1 organization had its grant terminated, and 1 new grant was awarded. There are 6 organizations currently pending non-continuation of award funds.

Fatherhood funds are used on main stream projects which are never identified as “Fatherhood Programs.” Fathers have a right to know if the court’s purpose for “helping” them is to require them to involuntarily parent or exploit their unwillingness by alternatively requiring them to pay for classes. Mothers should have a right to know if their mediator, or the child support attorney, or the free “lawyer of the day” are biased & working together for the purpose of helping ONLY fathers.

Equal Funding Not Available for Mothers and Children

There is no “motherhood promotion” program, yet mothers are awarded custody 80% of the time. TANF programs for mothers and children are needs based, extremely limited resources available; time / usage of allocations are limited. Qualification for legal assistance under VAWA include recent assault, extreme poverty, imminent danger.

Yet “Responsible fatherhood” per GAO REPORT is:
(a) not getting arrested for assault
(b) being embroiled in aggressive litigation
(c) showing up to collect one’s “incentives” . NFI funds are used to start “Parental Opportunity Projects” (POP,) which are the Fatherhood programs that distribute the $1 billion in child support “incentives” listed in the 2012 budget. However, in reality, government reports demonstrate that their true purpose is to recruit fathers into TANF funded litigation through the local child support system.

Programs are Illegally Given Judicial Authority over Family Law Cases

Under the veil of providing fathers with “More flexible policies,” some of the collateral incentives fathers were given while enrolled included:
(1) “…child support agency suspends the child support obligations…for three months.”
(2) “…hold child support in abeyance”
(3) “Only a token [support] order imposed”
(4) Illegal Abatement of Arrears: “While federal law prohibits adjusting past support obligations…providing amnesty, forgiveness, with arrears owed…”

LITIGATION IS A PUBLIC HEALTH CONCERN

Family Court Litigation causes stress, the “S” in PTSD & creates changes in peoples’ health.Social Factors contribute to PTSD along with psychological, genetic and physical ones - and people in conflict, abused, incarcerated or threatened are vulnerable to it. People who suffer PTSD may get upset easily, have flashbacks, and can be frightened by dreams or memories.

POP’s irresponsibly target families especially prone to PTSD, which is a type of disabling anxiety disorder which interferes with daily functioning. PTSD is an Invisible Disability
and its unethical and unlawful to discriminate under ADAAA. Title II of the Americans with Disabilities Act prohibits publicly funded programs from discriminating against persons with disabilities, “whether apparent or not.” The ADA explicitly covers

those with invisible mental disabilities, such as learning disorders (dyslexia, ADHD, ASD, e.g) and Post Traumatic Stress Disorder, depression, brain trauma, etc. Veterans with PTSD are likely to be found on military bases and in courtrooms, and that is exactly where a large portion of fatherhood programs are found. Instead of help, fatherhood programs exploit parental anxiety and convince them to litigate and "fight, fight, fight."

Automatic presumptions of joint custody diminishes parental rights and requires tax payers to fund unnecessary conflict caused by ignoring the needs of the child and limited resources available to parents. Rather than allow parents to decide what's best, they must allow the court to give custody to abusers 100% of the time, then fight it out in court to meet the child's needs in a situation which was otherwise working. Responsible fathers understand that the child's best interests are served by recognizing that each child and parent has unique individual strengths and needs.

Such wrongful attribution or presumptions take legal rights away from parents to decide what is best for the kids, and instead require parents to invest in endless litigation to discredit reputations. This alienates and extorts responsible fathers who would rather invest in their family than in a lawyer - or suffer ill health from protracted litigation It legally requires all abusive fathers and men seeking to evade support to have custody of children. By requiring a parent to be proven UNFIT rather than in a child's best interest, the parents must badmouth each other to the bitter end until the child is successfully damaged sufficiently to warrant the label, or the parents run out of money.

This skews custody cases towards father when mom has more responsibility and less economic and bargaining power, depletes her resources, and father gets custody by means of attrition when the mother can no longer afford a lawyer.

IT IS A PUBLIC HEALTH CONCERN which causes PTSD. <u>Stress Kills</u>

<u>Next Concern:</u> Are fathers getting the services they ask for.... or the ones the State wants them to have?

<u>REFERENCE OCSE Responsible Fatherhood Programs:</u>

- P.144: Nearly half (47% across all sites) said they needed educational services, compared with 17 percent of the program staff.
  It is unlikely that the program staff was truly unaware of their clients' limited educational levels"
- P. 148: "…Only 12 percent of the noncustodial fathers received educational services."
- P.148: "When they referred fathers to services provided by other agencies, staff records may only reflect the fact that staff made a
  referral to an external service provider and not that the client followed through and was actually served…there was considerable variation
  in the quality of monthly record-keeping at the sites."
- SOMETIMES: P.151 mentions that many fathers had car repairs paid for.
- P.166: "There were no significant differences between baseline and follow-up with respect to the total monthly amount due
  (i.e. combining monthly support with the monthly arrears payment.)

FACTS:

- Parents with 50/50 physical custody are not usually required to pay support.
- Injecting unwilling absentee obligors into the high conflict homes of children actually makes tax payers “more likely to pay” for all the therapy, legal support, and supervisory services required to maintain contact.
  (Is this a bargain?)
- Parenting time + low payment of child support # better quality life for the child if the lower payments curtail access to resources in one home or to the publicly offered lower cost services otherwise available. For instance, instead of needing just food stamps, the system is paying for litigation support to tear the child’s life apart and denying him access to food stamps in the primary home anyway.

How did all of this come about? (1994: Creation of a "Crisis")

In 1995, former President Clinton issued executive orders that directed federal agencies to review and “modify” all family programs and initiatives serving primarily mothers and children, to include fathers and “strengthen their involvement” with children. OCSE collateral mandates and NFI funding policies require the IV-D financial support related agencies to partner with and recruit business for a handful of father’s rights groups engaged in the nonprofit custody litigation industry. This sort of mandate usurps any chance for public courts to achieve judicial accountability to preserve due process.

The stated purpose of the father’s rights movement is **coercive control**:

- Promote a man’s property rights (eg. Right to access and control his children / ex)
- Reduce or eliminate child support
- Relax domestic abuse laws, penalties and restrictions meant to protect victims
- It is **NOT** the same as healthy engaged parenting by truly responsible fathers

see *“Family Court Corruption” 7/8/2002 by CA NAFCJ Director Cindy Ross,
http://www.newsmakingnews.com/ross7,8,02familycourtcorruption.htm

When a family enters the court system or enrolls in any kind of government assistance program, including child support services, fathers are constantly pressured to sign up for MULTIPLE TANF Fatherhood POPs “Parental Opportunity Programs” in order to receive these “free” subsidies through a series of piggy-back referrals to other FRI’s. However, fathers delinquent in support payments are called to meetings without the custodial mom present and forced by DCSS to elect between

(a) risk of prosecution trying to pay off poorly managed and possibly fake arrears
<or>
(b)Enroll in a POP and manufacture a “high conflict” custody war against their families with POP services.

In 2006, DCSS and SF Family Court applied for ACF grants to establish the “Resolve” project. This project railroads mother’s cases, and provides referrals to fatherhood funded “services.” In July 2011, San Francisco has since announced closure and shut

down of 25 courts.

National Child Support Enforcement Association (NCSEA): NCSEA is a nonprofit group which lobbies for ACF grants for child support programs and other nonprofit initiatives which service the family courts. Fatherhood nonprofits are given the authority to change court orders. Is this legal? Then, A fatherhood funded mediator advances father's interests. They are not telling mothers that this is a fatherhood program.They are affiliated with fatherhood groups.

The principle judicial violations are that judges obtaining the grants and hearing the cases
are in some instances affiliated with the male litigants (programs serve as a vehicle for favorable case results for enrolled dads - many are CRC members). CRC is a militant father's rights group started by David Levy which advocates for increasing the need for it's own court affiliated services by inciting protracted high conflict litigation. CRC's business plan feeds off fueding families who require court appointed officials such as father's attorneys, minor's counsel, mediators, GAL's, parent coordinators, evaluators, etc. The CRC related nonprofits like San Francisco's Kids'Turn offer
family court services such as parent education classes, counseling
services, and divorce transition support for kids.

Federal evaluators concealed:

- their role in program design;
- their "ownership" role in model program site;
- cross-affiliation with program case managers;
- affiliated with court professionals being paid
  from programs as court evaluators;
- designed programs so child support agencies
  recruit the adversary of their Congressional mandated
  public client for sole purpose of litigating against that custodial client;
- gave case managers 'judicial' like authority to
  change support orders;
- use of Gardner/PAS tactics which they have discredited themselves.
- Case Rigging by Courts
- Federal Funds Abused by States
- that Programs have no Accountability
- Reporting Fudged by States - widespread abuse

AFCC: The Family Court

Association of Family and Conciliatory Courts (AFCC) is an organization made up of judges who decide family court cases, as family court industry professionals who appear before them-sometimes on these very same cases. CRC and the AFCC are cross affiliated because they have many founding incorporating officials and members in common, and also give conferences together

or craft/co-sponsor father's rights legislation together. Kids'Turn is a San Francisco RFI funded CRC/AFCC affiliated nonprofit which provides the court's court ordered parenting classes and counseling services. Kids'Turn was founded by SF family court officers, and it is directly affiliated with the CRC AND AFCC. The SF Superior Court has a lien on Kids'Turn. Liens compel payment of debts. This means that Kids'Turn is granting something to the Superior Court.

To promote the NFI agenda and attract clients, FR advocates like Glenn Sacks wage hostile and aggressive anti-mother media campaigns which:

- Target, stalk and publicly lambast domestic abuse victims as liars, whores, mooches, and "alienators."
- Promote "False Allegations" hysteria. 90% of the abuse allegations made in court by mothers and children are real.
- Publicly discredit children who courageously report sexual abuse and violence

A popular Fathers Rights author is American Coalition of Fathers and Children (ACFC) board member Ronald Isaacs, Esq.
ACFC is a federally funded 501(c)(3) nonprofit.
Isaacs is the founder of the Fathers Rights Foundation, an Illinois for profit corporation.
While Glenn Sacks claims that Fathers and Families 501(c)(3) nonprofit does not accept TANF fatherhood funds directly, the NFI recipients contract his services with these funds.

Conclusion

Abolish Lawless State Family Courts by Cuts in DHHS Funding Abuses

Responsible Fatherhood is not evading and abusing the laws. Helping families means protecting parental rights, due process and civil procedure. The cottage industry of centers and nonprofits, unregulated supervisors for hire and state run programs is a Public Health Concern & not helpful.

See the PPT with charts, references, data, funding numbers, and some state references here in @1.

Attachments:

1. CobblestoneStrategiesHHSBrief.pdf (6.7 MB)

In this court, there's no obligation to explain anything

federal22: August 19, 2011 1:57 PM, Posted and Edited by Patrice Livingston

Michael Brady is due to go to prison on Wednesday. It won't help. It won't resolve anything. He will be just as poor when he gets out as when he went in. His two young kids, who tend to cling, will be without him.

But his imprisonment, if it happens, will re-exert the control Family Court has over one of the people caught in its snare. And in Rhode Island Family Court, control often seems a higher priority than resolution.

Brady makes one simple request in the midst of his latest go-round with the court — do the math.

"I'm 48 percent in the hole every month," he said.

He receives Social Security Disability payments because of a series of heart attacks and arthritis. He says he did very well in the mortgage business when he could still work, but he isn't doing well anymore.

He receives $1,430 a month plus $236 for each of his children. But $547.70 of that is attached by the court for child support for a son from his second marriage who is now 18.

So Brady is paying child support. But there are still back payments the court claims he owes, and a month ago Magistrate Armando Monaco told him in Family Court he would be going to prison on the 17th if he doesn't pay $4,500. The sentence is for one day at a time until the payment is made.

He says he doesn't have it. He says that after his child support and other basic expenses are covered, he has $499 a month to live on.

He raises an important point. Should payments be connected to reality or should they be imposed arbitrarily and with no regard for the ability to pay?

Two weeks ago, I watched as a friend was led out of a courtroom in handcuffs because he honored his late mother's wishes and divided $36,000 from her estate among himself and three of his children. He was found in contempt for not feeding the money instead into the gaping maw of Family Court.

Brady did what seems an obvious and reasonable thing. He filed motions with the court to modify his payments to more accurately reflect his income.

“The magistrate won’t hear my motions,” he said.

A magistrate should hear such motions, shouldn’t he? Isn’t it only fair to let a man argue his case, present the facts and the figures that explain how much he can pay and how much he can’t?

So I called the court. I asked if I could speak with Monaco about the case or at least get an explanation of why Brady’s motions for modification haven’t been heard.

Making such a request to Family Court is pointless. It is a court that does not explain itself. Much of its business is done behind closed doors. It undergoes little or no public scrutiny.

A court spokesperson told me there would be no conversation and no explanation for the failure to hear Brady’s motions because the case is still pending. Since cases seem to be pending forever in the court, that makes any explanation unlikely.

Meanwhile, Michael Brady counts down the days and hopes that he can be heard before his scheduled trip to the ACI. He has made arrangements with a friend to look after his children just in case. His son John is 3 years old, his daughter Jamie is 2. He is raising them by himself. Their mother, his third ex-wife, is in the ACI on drug charges.

If he does go to prison, it will be his third time. He is a standard bearer for that small fraternity of parents who end up in the slammer because the math just doesn’t work for them. He’s a Family Court lifer. There’s no end in sight.

There is a For Sale sign on the lawn of his house on Kentland Avenue in Providence. It is the house he inherited from his mother but a house, with its $3,200 tax bill, that he can no longer afford.

One day, a staff member of Family Court came to his house and pointed out items he should sell to meet his court obligations. Another time, in the summer of 2009, he was in the chambers of former Family Court Chief Judge Jeremiah Jeremiah when, he says, Jeremiah told him he had two hours to get $4,000 or DCYF would take his kids. He said he drove to New Bedford, borrowed the money from a friend and drove back to the court.

They are among the small indignities that mark the long-distance Family Court experience. They pile up as the years go on. And the years do go on. And the money dries up.

And sometimes a guy goes to prison knowing that when he gets out absolutely nothing will have changed.

bkerr@projo.com

Attachments:

1. RI0814_BRADY_JF_01_08-14-11_IHPO2LK.jpg (18.3 KB)

Illinois congressman Joe Walsh, a Tea Party rising star, sued for $100,000 in unpaid child support

rifoja6: July 31, 2011 11:30 AM, Posted by Patrice Livingston

http://www.syracuse.com/news/index.ssf/2011/07/illinois_congressman_joe_walsh.html

The issue my friend would like address is that certain congressional officers---whom have authoritative oversight of HHS---believe they are exempt from following the same laws they enact and require us to follow. Representative Walsh's wages were supposed to be garnished from his US Government congressional paycheck---but it wasn't. Please do not get distracted by the amounts, it is more the idea that the child support agency refused to enforce the court orders and allowed this jerk to run up a $100,000 tab, then required the mother to file her own motion with her own money to get the job done. At the same time, he has voted to DOUBLE the budget to $4 billion for the same untracable and unaccountable IV-D enforcement programs allegedly to enforce support orders. Right.

Many of the parents on this email are paying support, and we know that if it were you, your ass would be in jail and your kids would be caught in a federally funded custody battle. Instead of spending more time with the children during a tough divorce, he took the money he stole from the kids hired a lawyer to battle against them, then went on vacations.

In this case, either the judge is in cahoots with the father, or the judge has lost control of his courtroom because the HHS child support enforcement administrative agency will not enforce the orders. This means that the HHS Office of Child Support Enforcement has modified/set aside/ and created court orders without the constitutionally required authority of the judicial branch.

Today I recieved a letter from OCSE director Vickie Toureski HERSELF informing Senator Kerry that she was unable to address my complaint about internal corruption because OCSE does not oversee its own operations and staff. Then she referred my complaint to the Office of the Inspector General, who in February informed me that they do not handle such complaints. This is outragious. We all need to make a group complaint to the OIG and the SEC and the IRS because they are taking our money, collecting the interest, not forwarding it to our children, then not claiming the interest. Our children starve while BOA profits off our undisbursed support.

Please forward this to everyone you know and publish the shit out of it. This needs to stop.

Kidnapping? Extortion? No, just another child/family investigator

federal21: August 19, 2011 1:47 PM, Posted by Patrice Livingston

From Denver Westword Blogs:
Child/family investigator measure moves ahead amid tales of greed trumping kids' best interest

By Alan Prendergast
Wednesday, March 23, 2011
The e-mails contained an ugly ultimatum: Annette Story had to fork over $1,500 or lose contact with her son.

Colorado State Senator Linda Newell photo blogs.westword.com

Kidnapping? Extortion? No, just another child/family investigator (CFI) demanding an increase in his retainer. Under current Colorado law, Story had no recourse against such an outrageous threat, but a new bill seeks to change that.

Senate Bill 187, sponsored by Denver Democrat Linda Newell, is a package of reforms stemming from the sunset review of how the state regulates mental health professionals. But one little-known amendment, which Newell added in response to concerns from dozens of parents who describe themselves as CFI "victims," would subject CFIs who also happen to be therapists or psychologists to the same disciplinary measures as others in their field.

A CFI is a court-appointed expert who's supposed to help judges make custody decisions in particularly contentious divorce cases. Some CFIs are attorneys and are already subject to the attorney grievance process for any alleged ethical violations. But the Colorado Department of Regulatory Agencies has consistently rejected complaints about mental-health CFIs overstepping their bounds because DORA doesn't have jurisdiction over court proceedings.

Critics of the process say the CFIs don't have any real oversight at all -- even though judges rely on them to make critical decisions about which parent gets more access to the children. At a Wednesday committee hearing on the bill, Newell and other senators heard about CFIs who worked essentially as "hired guns" for certain divorce attorneys rather than as impartial evaluators, even "friending" those attorneys on their Facebook page; CFIs who ignored police reports and frightened kids' accounts and recommended that custody be awarded to chronic child abusers; and, of course, CFIs who seemed more interested in money than the best interests of the children they were evaluating.

"This man threatened to take my child away and hand him over to a known abuser if I didn't pay him another retainer," Story told the committee. "It's a shame my son had to suffer from the time he was nine until he was fifteen because the Colorado courts just take the word of a CFI."

Sue Papke testified about her daughter's battle against an ex (and his allied CFI) that consumed $300,000 over a dozen years. The CFI ignored four years of domestic violence charges, she said, and distorted the record in his official report. "This is the story of everyone in this room," she said. "If you take away their immunity, these people will have to be responsible for their actions, like other professionals."
Attorneys who specialize in family law have acknowledged to Westword that certain CFIs are known to have a bias going into a case. One might be known for being "pro-father," for instance, or inclined to favor the side that recommended that he or she be hired. An attorney CFI showing such favoritism, if it could be proved, would probably face disciplinary action from the Office

of Attorney Regulation; but there's no mechanism for seeking redress from a bad therapist CFI.

"There's a double standard," testified Amy Miller, public policy director at the Colorado Coalition Against Domestic Violence. "This amendment would fix that problem."

Officials at DORA testified against the measure, calling misconduct by CFIs an issue that "should be handled by the courts." But the senators moved the bill forward with the amendment intact.

Janice Whittaker, who founded a group called Parents United for Change after losing her son as the result of a CFI's report six years ago, was cautiously optimistic that the provision will survive further review as it inches through the legislative process. "I think having the parents there to tell their stories helped change some votes," she said.

Questionable Practices in Custody Litigation

policy5: August 8, 2011 6:56 PM, Posted and Edited by Patrice Livingston

This chapter talks about several important topics regarding needed legislative reform and regulations that will eliminate poor practices from the courts and people's live even if we achieve reform. The Table of Contents and Introduction to the Civic Research institutes Published volume on Domestic Violence Abuse and Custody is here in @1.

More importantly, the case for abolishing Family Court has evolved from the research and analysis of poor practices uncovered in the call for abolishing GAL's and court auxiliaries (psychologists, custody evaluators, etc). That chapter is here in @2. A 20-year review of custody evaluation practices is found in health20: Child Custody Evaluation Practices: A 20-year Follow Up and the notes are uncanny: one must follow along with what the "expert" psychologist says or risk having a difficult litigation case. They have regaled themselves with unearned power over two decades and the judges have indulged it while the state legislatures looked the other way believing them to abide by the ethics of their profession, especially FIRST: do no harm.

The bad part is this whole junk science of PAS (parental alienation syndrome). An April 2010 peer reviewed reference by lawyers, psychologists, judges, and other authors with subject matter expertise that highlight the list of facts as proof that PAS fails to satisfy Daubert:

1. Differential diagnostic criteria (DDC) cannot diagnose PAS according to Gardner's definition.
2. DDC cannot logically diagnose any identifiable entity
3. There is no evidence that PAS is a medical syndrome; its cause and remedies are legal, not medical
4. Gardner's expert certification was questionable. He was a known child sexual abuse proponent and committed suicide in May 2003. The Bergen County (New Jersey) Medical Examiner reported that Dr. Richard Gardner died a gory, bloody and violent death - from his own hand. Gardner took an overdose of prescription medication while stabbing himself several times in the neck and chest. Gardner plunged a butcher knife deep into his heart.
5. PAS is a mere ipse dixit ~ "Subjective (belief) and unsupported speculation" see the reference: J. Hoult, "*The Evidentiary Admissibility of Parental Alienation Syndrome Science, Law, and Policy, "* 26 (1) Child. Legal Rts, J. 1 (Spring 2006) also presented at the International Conference on Violence, Abuse an Trauma San Diego, CA Sept 17, 2006

However, the authority, fees, referrals, and encroaching ability to publish and influence peoples lives is just too alluring. The type of individual that has seen the Family Court domain as a magnet for their work, has abandoned their ethics and should be regulated and they should be kicked out of the court and out of family practice per statute. Psychologists should not be endowed with making custody recommendations which cause a judge to abdicate his authority and decision making -through evidentiary hearings, protecting due process and preserving civil rights for all parties. The GALs, evaluators and psychologists have too many immunities and privileges which have allowed them to hide their conflicts of interest, the conspiracy and revolving door referrals and in the case of Rhode Island the secret society that used to meet to exchange family court cases, notes, and strategy in violation of peoples privacy! They called it the legal-mental health coalition and convinced themselves that sharing private information gleaned by their work in cases to help adversarial attorneys and other psychologists in other counties gain a leg up on influencing judicial outcomes.

In the Rhode Island Department of Health, August 2008 Center for Health Data and Analysis (full 4 page document here in @3)

serious psychological distress (SPD) is calculated by a person's answers on how often they feel nervous, hopeless, restless/edgy, depressed, worthless or that "everything is an effort". SPD rates in RI are higher among those who are Hispanc, without a college degree, have annual household income less than $25,000, are divorced or separated, are unemployed or unable to work; or have a disability. The Family Court adversarial system and psychological battering actually causes a person to be placed into three or more of these categories, all simultaneously by traumatically taking their children, economically impoverishing them, interfering with working capability (or outright inducement of disability). The actions of these psychologists and attorneys cause increased risk for SPD in Rhode Island citizens. The fact that these persons also have less access to health care than others (or that the source of the abuse is FROM the health care system via legal abuse) points towards underlying issues of concern for the state about both identification of the problem and access to adequate and appropriate care - not bogus diagnosis that cause more trauma and increased risk for SPD.

By allowing such revolving doors of psychologists and attorneys in their referrals of family court cases, the court simply does what the unavailable psychologists says, and so delegates the court’s authority for rulings of law to a sealed letter that was paid for by one of the adversaries. When a party tries to hold the psychologist or GAL accountable, they say: the judge made the ruling. When one attempts to gain clarity from the court, the judge says they go by what their “experts” recommend. And so goes the legal entrapment and abuse of the vulnerable litigant in such a scheme, It is a practice that is not endorsed by any reputable national standards body in either the medical community or the legal community. It allows people to commit domestic violence by proxy on other using the courts, attorneys and psychologists to do it: see health31: Domestic Violence By Proxy

This flies in the face of abuse of the public trust. See policy11: 2011 Crimes Against the Public Trust Statute - Title 42 for the wording of good legislation as the Rhode Island General Assembly has valiantly passed legislation to establish a public corruption unit at the office of the Attorney General in the interest of capturing these very bad practices on the RI citizenry.

Cross References:

references (3)

- health31: Domestic Violence By Proxy
- policy11: 2011 Crimes Against the Public Trust Statute - Title 42
- health20: Child Custody Evaluation Practices: A 20-year Follow Up

Attachments:

1. DVAC_TOC.pdf (331.7 KB)
2. Chapter23-ArgumentToAbolishCourtAppointedEvaluators.pdf (6.4 MB)
3. 2007SeriousPsycologicalDistress-1.pdf (436.4 KB)

Redefining the Child's Right to Identity

federal13: August 10, 2011 9:11 AM, Posted and Edited by Patrice Livingston

INTERNATIONAL JOURNAL OF LAW POLICY AND THE FAMILY

August 2004 IJLP&F 2004.18(147)

TITLE: Redefining The Child's Right To Identity
AUTHOR: Ya'ir Ronen

CASES REFERRED TO:
Re M (Child's Upbringing); Re M (Section 94 Appeals); [1995] 1 FLR 546; [1996] 2 FLR 441; Gaskin v United Kingdom; (1989) 160 Eur. Ct. H.R. (ser. A.) p 25

LEGISLATION REFERRED TO:
UN Convention on the Rights of the Child; European Convention for the Protection of Human Rights and Fundamental Freedoms; Children Act 1989

ABSTRACT
This article proposes redefining the child's right to identity as a right to state protection of ties meaningful to the child. Its main arguments are, in essence:
(1) Such a right should protect the development of an authentic individual by seeking the child's wishes and feelings concerning their ties.

(2) Protection of an individualised identity necessitates exploration of culture as a context of personal meaning which cannot be equated with cultural sensitivity as commonly perceived.

(3) Consequently, preferential protection of the child's ties to a minority culture or to individuals affiliated to it is seen as violating the proposed right.

(4) The UN Convention on the Rights of the Child reaffirms commitment to a dynamic child-constructed identity.

(5) Protection of the proposed right reflects, protects and creates a social reality in which children's lives may be imbued with personal meaning. A discussion of two English cases demonstrates these arguments.

1. INTRODUCTION
This article maintains that the state should have a positive duty to safeguard the child's right to identity as a right to protection of ties meaningful to the child . n1

It suggests that these ties delineate the child's identity. These are primarily ties to the human world, but they can also be ties to an animal, such as a dog or a horse, to an inanimate object, such as a book or a tree, or to a geographic place such as a village or a physical home. It begins with an exposition of the main arguments and focus. This introduction is followed by a discussion of

authenticity, of the child's legally neglected need for a meaningful existence and of culture as a context of personal meaning. This discussion forms the rationale for the proposed definition of the right to identity. A critical discussion of the right to identity in international law follows, clarifying and exemplifying the need to redefine the right in positive law. There then follows the essence of the stories of two children as told by the Lord Justices of the English Court of Appeal in two cases which exemplify some of the dilemmas related to identity that are discussed in the article. An analysis of the two court cases presented follows and ends with a concluding note exploring the key implications of the proposed redefinition of the right.

The main arguments of this article are:

1. The child's right to identity derivative of their human dignity should protect the development of an authentic self-actualising individual which maintains psychological
ties, primarily ties of interdependence to significant others. The state should protect a right to an individualised identity by seeking the child's wishes and feelings concerning their ties. In this way, a structured element of caution is introduced into child law policy and practice.

2. Protection of an individualised identity necessitates exploration of culture as a context of personal meaning and is founded on empathic understanding of an
individual child's experience. Such respect cannot be equated with what is commonly perceived as cultural sensitivity.

3. Consequently, preferential protection of the child's ties to a minority culture or to individuals affiliated to that culture is seen as violating the right to identity. Such
preferential protection signifying a politicised selectivity of compassion is an inappropriate tool to correct or counteract prejudices against such a minority culture.

4. Neither the UN Convention on the Rights of the Child (UNCRC) nor the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHRFF) explicitly uphold the right to identity as defined here. The child's right to guidance formulated in Article 5 of the UNCRC and their right to free expression and right to participation formulated respectively in Articles 12 and 13 to the UNCRC, as interrelated, implicitly reaffirm the commitment of international law to a dynamic child-constructed identity.

5. Legal protection of the proposed right not only reflects and protects a social reality in which children's lives may be imbued with personal meaning. It also creates such a reality through law's transformative educational impact.

The focus of this discussion is not any national law but rather international instruments, primarily the UNCRC. Though not incorporated into statute law in most jurisdictions (including England), the UNCRC is the most authoritative legal text on children in international law (Van Bueren, 1995:1-25). English Courts, like many other domestic courts world-wide, have recognised that domestic administrative and legal procedures absorb the UNCRC's expectations (Rosenblatt, 2003) and therefore its minimalist and sometimes implicit references to identity are seen as deserving primary attention.

see full article complete with references here in @1

Cross References:

referenced by (1)

rifoja9: Bill of Rights for Children in Divorce and Dissolution Actions

Attachments:

1. RedefiningChildsRighttoIdentity.pdf (271.1 KB)

Missouri Case - GAL Family Court Nightmare

policy38: September 11, 2011 6:29 PM, Posted by Patrice Livingston

we have a letter for his attorney stating that he is not to go on any blogs or talk about the Judge or go to the U.S Attorney's office. He is going to continue to speak out. I have the 2 letters from his attorney and they are saying the COURT APPOINTED doctor says he needs to see a psychologist or psychiatrist for Parent Alienation. If he does not follow through with Supervised Visitation with the mother they will take the kids from him and give them to GIBSON OR A THIRD PARTY. Missouri Dad Spends $100K (so far) Fighting to Save His Kids From Their Violent, Ex-Con Mother (Update) June 13th, 2011 · 2 Comments

EDITOR'S NOTE: The story below involves an actual Missouri Family Court case; however, all names, dates and other case-specific personal details in the story have been changed in order to protect the identities of the innocent people involved. It is one of several cases about which details have been shared with me by individuals advocating for Family Court reform in the Show-Me State. In a case that has dragged on for years, a Missouri Family Court judge seems to be doing his level best to ensure three young children end up in the custody of the wrong parent. Hanging over the case is one question: "Why?" I refer to the biological parents in this case as "Jack and Jill."

Jack has never been in trouble with the law, while Jill is the violent, drug- and alcohol-addicted, drug-dealing, ex-convict mother of his children. Several law enforcement agencies in the counties where Jill roams are familiar with the woman. She has attempted suicide more than once, been arrested dozens of times, been imprisoned several times and, when not behind bars, continues to hang out with known drug dealers, prostitutes and other felons, according to court records, police reports and other official documents shared with me by people close to the case. Attorneys in the same area are more familiar with Jack, because he's had to hire so many of them. One after another dropped him as a client after he refused to agree to any kind of shared-custody arrangements they had negotiated, Jack said. So far, his latest attorney seems to be more focused than his predecessors on winning. Here's to hoping that remains the case. Jill, on the other hand, has somehow managed to keep one attorney at her beck and call for years despite having no legitimate source of employment or place of residence, according to court records. Some think drug money and prostitution revenue pay her bills. Whether the same influence has anything to do with Jack's "revolving door" of attorneys is anyone's guess.

In addition to dealing with that revolving door, Jack has fought hard trying to convince the judge to consider the expert testimony of impartial physicians, psychologists and counselors. Why? Because, Jack said, the so-called "experts" tapped by the court to perform interviews, exams, etc., had major flaws. For example, a child psychologist/counselor who had once lost his license to practice in Missouri due to misconduct, was appointed by the judge to interview/examine the children, according to public records available on the Missouri Division of Professional Registration website. While relying upon the less-than-stellar court-appointed expert, Jack said, the judge ignored the opinions of several highly-respected physicians at a renowned area medical center. Those physicians examined Jack's children for signs of sexual abuse and/or molestation and, afterward, advised against allowing the children to be returned to the locations where the incidents of alleged abuse took place or to associate with those who had allowed the abuse to occur (i.e., the children's mother and her associates). The judge also ignored letters from others involved in the children's lives on a regular basis (i.e., teachers, social workers et al). In those letters, copies of which I've read, the authors concurred with the medical experts' shared opinion that the children should be kept away from the mother.

Another area of concern for Jack is the work of the Guardian Ad Litem (GAL), a court-appointed attorney whose purported role is to look out for the best interests of his children throughout the legal proceedings. According to Jack, the GAL assigned to his

children has not had contact with them - in person or by phone - for almost three years. To date, Jack's fight has dragged on for nearly half a decade and has cost him and the members of his extended family who've helped him more than $100,000 in attorneys fees and related court costs. That figure, I've learned from people with firsthand knowledge of the Family Court system, is not atypical. In addition to eating up his life savings, the court battle has eroded Jack's belief in the justice system. Still, he fights, he said, because he knows what kind of future his children are likely to have - one involving crime, drugs, prostitution and violence - if their mother is allowed to be involved in their lives. As Jack awaits the judge's ruling in this case, hope seems an extremely-costly pipe dream. * * * Should Jack decide to level accusations of wrongdoing or impropriety against the Family Court judge, the GAL and/or others involved in his case, he is not likely to get far. Why? Because two things are working against him: First, the Missouri House has impeached only two Missouri judges since the Civil War era, and both resigned before they could be removed, according to the Missouri Courts web site; and Second, GALs are accountable only to the judges who appoint them, according to a Missouri Courts spokesperson with whom I spoke earlier this month [See Transparency Missing in Missouri Senate, Courts for details.]. Hence, the time for Family Court reform is now. Stay tuned for more stories in my series, Family Court Nightmares.

posted by **cheryl boyer AFU President**

by Sept 11, 2011 AFU email news

Fraud in the Family~ The Case of the Cheating Foster Parents

federal18: August 12, 2011 5:03 PM, Posted and Edited by Patrice Livingston

It's almost unthinkable—parents stealing from their own foster child. But here's a story about a couple who did exactly that.

It's also a case that Tampa FBI Agent Dan Kelly, Florida Department of Law Enforcement Agent Terry Corn, and Acting U.S. Attorney Robert O'Neill (now U.S. Attorney) won't soon forget. Said Kelly, "For financial crime investigations, we often don't get to know the victims, but in this instance, it was hard not to be absorbed into this boy's situation."

It started back in 2000, when 13-year-old Markus Kim suffered an unimaginable loss—his father murdered his mother. Markus was eventually placed with foster parents Radhames and Asia Oropeza in Flushing, New York.

About six months later, Markus learned he was entitled to a $500,000 life insurance policy that his mother had taken out. He couldn't access the money until he turned 18…in the interim it would be managed by the life insurance company. Not long after, Radhames and Asia Oropeza began suggesting that Markus consider real estate investing when he became of age.

Around the time Markus turned 18, his foster parents left New York without a word to him. Turns out they had moved to Florida, and about a year later, he was invited down to visit them. The Oropezas convinced their foster son to buy two $200,000 certificates of deposit (CDs) from a local bank…to better protect his money, they said. Because Markus trusted them, he followed their advice, and even allowed Asia Oropeza to co-sign bank documents.

The bank told Markus he'd receive monthly $1,000 checks—interest earned by the CDs. But after two checks, they stopped coming. He discovered that the CD accounts had been emptied and closed by Asia Oropeza.

So how did the FBI become involved? Markus, becoming exceedingly frustrated, contacted a legal aid attorney in New York, who in turn sought the help of an attorney in Florida. The attorney, who worked the case pro bono, contacted Acting U.S. Attorney O'Neill in Tampa. And O'Neill got in touch with the FBI and the Florida Department of Law Enforcement.

Our investigation revealed that the couple used the CDs—which were also in Asia Oropeza's name—as collateral when applying for two separate mortgage loans, and then once the CDs matured, they used the funds to pay off those loans.

Outcome. Asia Oropeza pled guilty to fraud, while her husband was later convicted at trial. They were ordered to pay Markus restitution, had their real estate holdings seized, and received prison terms. And last month in Tampa, during a press conference attended by investigators and prosecutors who worked the case, the 25-year-old Markus, who works as a concert stage hand in New York, received full restitution—a check for $409,662.07. He told the press that receiving the money gave him "a new lease on life."

Special Agent Kelly says that the investigation brought him and everyone else involved a great deal of satisfaction. "Cases like this," he explained, "show us what kind of impact our work actually has, and that's what keeps us out there doing it every day."

Resource - Press release: http://www.fbi.gov

Former "Most Wanted" Health Care Fraud Fugitives Plead Guilty to $9.1 Million Detroit Medicare Fraud Scheme

legal52: August 24, 2011 8:35 PM, Posted by Patrice Livingston

WASHINGTON - Two sisters who owned a fraudulent Detroit-area medical clinic and who are former "Most Wanted" health care fraud fugitives pleaded guilty today in Miami for their leading roles in a $9.1 million Medicare fraud scheme, announced the Department of Justice, the FBI and the Department of Health and Human Services (HHS).

Caridad Guilarte, 54, and Clara Guilarte, 57, each pleaded guilty before U.S. District Judge Cecilia M. Altonaga to one count of conspiracy to commit health care fraud and one count of conspiracy to commit money laundering. The sisters were charged in an indictment unsealed in June 2009 and were placed on the HHS Office of Inspector General (HHS-OIG) Most Wanted Fugitives list. They were arrested on March 13, 2011, by law enforcement authorities in Colombia and were returned to the United States on March 14, 2011.

In pleading guilty, the Guilarte sisters admitted that in approximately March 2005, they opened Dearborn Medical Rehabilitation Center (DMRC), in Dearborn, Mich., with the express intent to defraud the Medicare program. DMRC routinely billed Medicare for exotic and expensive medications that were medically unnecessary and were never provided. Although they billed Medicare for millions of dollars of these medications, the Guilartes admitted that they and their co-conspirators at the clinic had purchased only a small fraction of the medications.

The Guilartes admitted that Medicare beneficiaries were not referred to DMRC by their primary care physicians, or for any other legitimate medical purpose, but were recruited to come to the clinic through the payment of cash kickbacks. In exchange for those kickbacks, the Medicare beneficiaries would visit the clinic and sign documents indicating that they had received the services billed to Medicare. Patients were prescribed medications not based on need, but based on what medications were likely to generate the greatest reimbursements from Medicare.

According to court documents, Caridad and Clara Guilarte laundered the proceeds of the health care fraud through shell corporations in order to conceal the source and ownership of the funds stolen from Medicare.

The Guilartes admitted that between approximately March 2005 and March 2007, they caused the submission of approximately $9.1 million in false and fraudulent claims to the Medicare program for services purportedly provided at DMRC. Medicare paid approximately $6 million on those claims.

The defendants consented to have their case transferred to the Southern District of Florida for plea and sentencing. Caridad Guilarte also consented to the forfeiture of $464,096 seized from bank accounts she controlled.

At their sentencing, scheduled for Nov. 3, 2011, the Guilartes face a maximum of 10 years in prison for each count of conspiracy to commit health care fraud and 20 years in prison for each count of conspiracy to commit money laundering.

The guilty pleas were announced by Assistant Attorney General Lanny A. Breuer of the Criminal Division; U.S. Attorney Barbara L. McQuade for the Eastern District of Michigan; U.S. Attorney Wifredo A. Ferrer of the Southern District of Florida; Inspector General Daniel R. Levinson of the HHS-OIG; and Special Agent in Charge Andrew G. Arena of the FBI's Detroit Field Office.

The case is being prosecuted by Trial Attorney Gejaa T. Gobena of the Criminal Division's Fraud Section and Assistant U.S. Attorneys Philip A. Ross of the Eastern District of Michigan and Adam Schwartz of the Southern District of Florida. The Criminal Division's Office of International Affairs provided assistance. The case was investigated by the FBI and HHS-OIG, and was brought as part of the Medicare Fraud Strike Force, supervised by the Criminal Division's Fraud Section and the U.S. Attorneys' Offices for the Eastern District of Michigan and the Southern District of Florida.

Since their inception in March 2007, Medicare Fraud Strike Force operations in nine locations have charged more than 1,000 defendants who collectively have falsely billed the Medicare program for more than $2.3 billion. In addition, the HHS Centers for Medicare and Medicaid Services, working in conjunction with the HHS-OIG, are taking steps to increase accountability and decrease the presence of fraudulent providers.

To learn more about the Health Care Fraud Prevention and Enforcement Action Team (HEAT), go to:www.stopmedicarefraud.gov .

see original source of article at: http://www.justice.gov/opa/pr/2011/August/11-crm-1081.html

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2011 Crimes Against the Public Trust Statute - Title 42

policy11: August 8, 2011 9:44 PM, Posted by Patrice Livingston

Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 42-9.4

Public Corruption and White Collar Crime Unit

42-9.4-1.1 Legislative Findings - The general assembly hereby finds and declares that:

(1) Government Integrity is the backbone of efficient and effective state and municipal governments

(2) Abuse of the public trust erodes the public's confidence in public servants, as well as undermines the ability of government to work toward the public good.

(3) Recent and historical cases of the abuse of public trust has had a negative impact on the operation of state and municipal government and the state's economy.

(4) All citizens of Rhode Island heave the right to open, honest and ethical government

(5) The public needs an advocated to ensure that the policy goals and laws established to protect Rhode Islanders from abuse of the public trust are enforced

(6) In order to provide a safeguard against abuses of the public trust by public servants, the general assembly finds it necessary to establish a public corruption and white collar crime unit within the department of attorney general.

42-9.4-2. Definitions - As used in this chapter:

(1) "Public Servant" means:

(i) Any full-time or part-time employees in the classified, non-classified and unclassified service of the state or of any city or town within the state, any individuals serving in any appointed state or municipal position, any employees of any public or quasi-public state or municipal board, commission, or corporation, and any contractual employees of the state or of any city or town within the state.

(ii) Any officer or member of a state or municipal agency as defined in subdivision 36-14-2(8) who is appointed for a term of office specified by the constitution or a statute of this state or a charter or ordinance of any city or twon or who is appointed by or through the governing body or highest official of state or municipal government; or

(iii) Any person holding any elective public office pursuant to a general or special election

(2) "Abuse of Public trust" means any conduct, criminal or unethical in nature, that deprives the citizens of the State of Rhode Island and its municipalities of a government that operates in furtherance of the public interest.

42-9.4-3 Establishment - There shall be established within the department of attorney general a public corruption and white collar crime unit. The unit shall consist of at least an assistant or special assistant attorney general designated by the attorney general. The unit is authorized to perform the following duties as the attorney general may direct, including, but not limited to:

(1) Investigate potential cases of abuse of the public trust in accordance with the Rhode Island general laws;

(2) Prosecute cases of abuse of the public trust in accordance with the Rhode Island general laws;

(3) Cooperate with the United States Attorney's Office, the Federal Bureau of Investigation, the Rhode Island State Police and the Rhode Island Ethics Commission on investigations and prosecutions related to the abuse of the public trust, and

(4) Establish a whistleblower hotline for repots of potential violations regarding abuse of the public trust

42-9.4-4 Whistleblower protections -

(a) prohibition against discrimination. No person may discharge, demote, threaten or otherwise discriminate against any person or employee with respect to compensation, terms, conditions or privileges of employment as a reprisal because the person or employee, or any person acting pursuant to the request of the employee, provided or attempted to provided information to the attorney general or his or her designee or other law enforcement entities regarding possible violations of the Rhode Island general laws by public servants.

(b) Enforcement. Any person or employee or former employee who believes that he or she has been discharged or discriminated against in violation of subsection (a) may file a civil action within three (3) years of the date of discharge or discrimination

(c) Remedies. If the court determines that a violation has occurred, the court may order the person who committed the violation to:

(1) Reinstate the employee to the employee's former position:
(2) Pay compensatory damages, costs of litigation and attorneys' fees; and/or
(3) Take other appropriate actions to remedy any past discrimination

(d) Limitation. The protections of this section shall not apply to any person or employee who:

(1) Deliberately causes or participates in the alleged violation of law or regulation; or
(2) Knowingly or reclessly provides substantially false information to the attorney general or his or her designees

42-9.4-5 No derogation of attorney general -
(a) No provision of this chapter shall derogate from the common law or statutory authority of the attorney general nor shall any provision be construed as a limitation on the common law or statutory authority of the attorney general

SECTION 2: This act shall take effect upon passage.

Cross References:

referenced by (1)

policy5: Questionable Practices in Custody Litigation

CHAMBER OF SECRETS CBS News

rifoja41: September 14, 2011 4:51 PM, Posted and Edited by Patrice Livingston

September 14, 2011

All CCC Posts

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By Rabecca Leung
(CBS) Frieda Hanimov's American dream was once a big house in a swanky New York neighborhood. It's a world away from the poverty where she grew up. Her parents fled Russia, emigrated to Israel, and at the age of 18, this young nurse made her way to America. Just a few weeks later, she met the man she would marry, Yury Hanimov, whose business was diamonds. They would have three children, Yaniv, Sharon, and Natti.

Life was good. But after 13 years of marriage, Yuri announced to his wife that his business was failing. The dream house had to be sold, and they moved to a small apartment in Brooklyn.

Frieda says her husband told her they had to pretend to be divorced. She claims it was part of a scheme to hide their assets. "He gave me diamonds," she says. "He told me that it's worth over $6 million. He told me not to show it to anybody."

"They shine. They're gorgeous," adds Frieda, showing **Correspondent Lesley Stahl** the diamonds. But one day, Yury didn't come home. Frieda says he just disappeared with his clothes, and was unreachable by phone. And the diamonds? "Zircon," says Frieda.

The diamonds were fake, but the separation papers Frieda signed were real. And she says she had unknowingly signed away her rights to any of her husband's assets. "This is a crime. What he did to me was a crime," says Frieda, who hired a lawyer to try to stop the divorce . She pinned her hopes on the wisdom of a New York State Supreme Court justice, Judge Gerald Garson. "He would see that this is a set-up," she says. "And you know, a woman married to her husband, a mother of three, will get her rights." But when she walked into his court, her hopes were shattered. "The judge tells me that I better settle this case and I don't have any chances," says Frieda. "He told me if I'm not gonna settle, I'm gonna end up in jail."

The judge chastised her for renting an apartment she co-owned with her husband, without his permission. Stunned by the judge's behavior, Frieda says she saw no choice but to agree to the divorce. "I said, 'To hell with the money. I'm a nurse. I'll make it. As long as I have my kids, I'll just continue with my life. It's not the end,'" says Frieda. Two years later, Frieda fell in love, got married and became pregnant.

Frieda says her ex-husband got jealous, and began trying to convince the children they would have a better life with him. Her 13-year-old son, Yaniv, liked the idea. One night, when Frieda came home from work, her ex-husband called the police on her. "[They said,] 'Your son said that you hit him with a belt,'" recalls Frieda.

Yaniv was standing outside with his father, and told the police his mother had beaten him with a belt three days earlier. Frieda says her son had a fresh red mark on his face, one that looked like it was new: “My ex-husband pointed to my son and said, ‘ You see? You see the red line? This is mommy hit him with a belt.’” She says she has no idea how the red mark got on her son’s face: “I don’t know. Kids play basketball, they jump. I don’t know.”

“I never hit my kids. Never ever. I’m against it,” adds Frieda. “My kids are well dressed. Very clean. Honors in school. I’m proud to be their mother.” Frieda was arrested, and at that point, she says her son protested. “He said, ‘No, no it was a misunderstanding.’ Then he went to my ex-husband and started hitting him and saying, ‘Daddy, you lied to me. You said they’re not going to hurt Mommy,’” recalls Frieda. “They put me in a cell with I will say 30-50 people. All knocked out. Me shaking. Pregnant,” says Frieda. “Sitting and crying and I can’t believe my son did this to me. It’s for no reason. I never hit my son.”

Then the news got even worse for Frieda. Her ex-husband filed for custody; he wanted all the children. And the man deciding the fate of her family was Judge Garson. “When Judge Garson called me into his chamber room, he asked me who I wanted to live with, my mother or my father. So I told him my mother,” says Sharon. “He told me that he’s an adult and he decides, whether I like it or not. So what’s the point of me talking to the judge if he didn’t even want to hear what I wanted to say?”

“I told him my mom,” says Natti. “And he said, ‘You never know what’s gonna happen. It’s up to me.’” Frieda says she wasn’t going to sit and wait: “I’m not going to lose my kids.” She heard about a man, Nissim Elmann, who could help, a businessman who was boasting around town that he could influence the judge. “I said, ‘Let me call him,’” says Frieda. “And he tells me that this judge is in his pocket.”

Frieda says Elmann told her he could prove it by dialing the judge himself. She listened in to the conversation, and says she heard a man say that she was going to lose her children in 30 days. She then hung up the phone, terrified. Frieda began calling every law enforcement agency she could think of, including the FBI. “I was very hysterical,” she says. She was directed to Bryan Wallace, Kings County assistant district attorney, who was the first investigator to take Frieda seriously. “There was a businessman named Nissim Elmann who claimed that he had influence in Judge Garson’s part,” says Wallace. “Of course, my antennas went up.” “We’re not talking about a traffic ticket here or someone jumping a turnstile. We’re talking about corruption in the court system. And the pawns that are being played with here are children,” says prosecutor Noel Downey, who works with Wallace in the Rackets division.

“We explained to her that we needed to, in essence test her, to see if what she was telling us was the truth,” says Michael Vecchione, Downey and Wallace’s boss, who knew that proving corruption in the courts would be difficult. “I told them, ‘Put wires on me,’” says Frieda. “I’ll prove you this judge is corrupted.” “We couldn’t cover her inside the warehouse. It’s a rather stark and daunting place. It’s kind of brick and closed up and so once Frieda went in that location [she was on her own],” says Vecchione. “Her allegations were that a Supreme Court Judge had been bribed. She was about to lose children.” Frieda, three months pregnant, was on an undercover mission to expose corruption. She headed to a warehouse in downtown Brooklyn to meet with Elmann.

“We didn’t really know what Nissim Elmann was about. We didn’t know what he was capable of,” says Vecchione, who assigned detectives Jeanette Spordone and George Terra to Frieda. The detectives wired up Frieda. “She was a tiger. She was protecting her cubs,” says Spordone. “It was ballsy of her to go in there. We pulled up and watched her go in. We really didn’t

know what was going on inside that warehouse." Frieda found Elmann right in his office. Their conversation was mostly in Hebrew. Elmann tells Frieda that the judge is looking at papers submitted by her ex-husband. Frieda then pleads with Elmann, who shows her his cell phone, with Judge Garson's phone number on the screen. Elmann, an electronics salesman, guarantees she'll win custody of her two younger children, but it will cost her Two weeks later, Frieda, wearing a wire again, visits Elmann to negotiate a price for her children. The price to keep custody of Sharon and Notti was $9,000.

Frieda says it worked. She says Judge Garson and Paul Siminovsky, a lawyer assigned by Garson to represent her children, soon began treating her differently. "I was seeing results," says Frieda. "In the beginning, I was so dangerous. Now, I'm a very good mother." "She saw such a difference, how people treated her from top down," says Downey. "We noticed it as well." Now, it was up to the district attorney to figure out how an electronics salesman from Brooklyn could possibly be influencing custody decisions. They put a tap on Elmann's phone.

On tape, Elmann assures Siminovsky that he's working to get him money from various divorce litigants. Simonovsky also brags about boozing it up with Judge Garson. Detectives begin tailing Siminovsky, who is seen in a surveillance tape hugging Elmann. "Siminovsky and Elmann have a very tight relationship," says Downey. "Siminovsky has a very tight relationship with the judge." Investigators believed they had figured out the food chain, literally. Vecchione showed ***48 Hours*** the bar where " Siminovsky and the judge would meet for lunch, drinks and dinners.

"They were very well known at the Archives because they were there every afternoon," adds Spordone. "Very friendly. They were buddies." "I'm talking about an attorney who would bring the judge out to lunch, to drinks, to dinners," says Downey. " Not once, but we're talking several hundred times. Every time, Siminovsky paid." "Paul Siminovsky would pick up the tab. It was a given," says Terra. "People know that this lawyer is before this judge on a case. It's wrong. It's inappropriate. It's unethical." If this was what going on in public, authorities wanted to know what was happening behind closed doors. Were judicial decisions being bought?On a cold December night, detectives from the district attorney's office made their way into Judge Garson's chambers. They placed a tiny camera in his ceiling.

"We had a microwave dish that would read signals going back to our office," says Vecchione. "We had people who were monitoring it, all day long and into the evening." Just weeks after Frieda, terrified she was going to lose her children, started working undercover to try to prove whether Judge Garson was taking payoffs, the district attorney began surveillance of the judge and his meetings with Siminovsky. "You have this attorney Siminovsky getting inappropriately cozy with a judge who's appearing before, that he has cases with," says Downey. One of Siminovsky's clients was Sigal Levi's estranged husband, Avraham Levi. Detectives secretly listened in as Judge Garson told Siminovsky that his client would win the family home – and that Levi would "walk away with nothing." At a later date, Garson instructs Siminovsky how to write a memo on the issue.

According to investigators, the judge and the lawyer said things about other women, too. "The way he spoke about women was really just beyond sexist," says Downey. "I think it borders on disturbing." Investigators say they heard Siminovsky tell Elmann what Garson said about Frieda. "The judge was admiring her lips," says Vecchione. But the worst thing that was going on in Garson's chambers, according to investigators, were the kickbacks – in the form of lucrative work. "You see Siminovsky's assignment numbers almost triple," says Vecchione.

Investigators say all the wining and dining of the judge paid off for Siminovsky in a big way. If a child needed representation in

a custody case, Garson would assign Siminovsky as the law guardian – and the divorcing parents or the taxpayers would foot the bill, often tens of thousands of dollars. Garson's behavior was especially appalling for Joe Hynes, the district attorney in charge. For him, the investigation was personal. "I saw the way the courts treated my mother when she was being beaten up by my father. I have a very special interest in making damn sure that kinda stuff doesn't continue," says Hynes. "Frankly, I was shocked that it was going on at all. I thought that there had been significant changes in the way the courts acted towards women litigants and their kids."

The district attorney thought he had the goods on Siminovsky, but he wanted Judge Garson. He told his staff to offer Siminovsky a deal and get him to flip. They would recommend that Siminovsky serve no prison time. It was an offer he couldn't refuse. Simonovsky took the deal; he would wear a wire and go see the judge. The district attorney bought a $275 dollar box of cigars. "And one afternoon, after Siminovsky went to lunch with the judge, and after he paid for the lunch again, came back to the robbing room, gave him the box of cigars," says Vecchione. "And said, 'This is thanks for your help in the Levy case.'" Next, Siminovsky brought $1,000 in cash as a thank you to Garson for referring a case to him in another court.

"You see him reach into his pocket and he takes out a thousand dollars, and he hands it over to the judge and the judge takes it and put it into his pants pocket," says Vecchione, describing what is happening on the tape. "Siminovsky leaves, and the judge takes it out of his pocket. Takes a couple of bills and puts it into another pocket and puts some in an envelope." Judge Garson then calls Siminovsky back to his office. He tells Simonovsky that it's too much money and tries to give it back. But Siminovsky insists, and in the end, Garson keeps the money. "What we had all suspected he would do, he actually did," says Vecchione. "Joe Hynes, the district attorney in this case, would like nothing better than to tag Jerry Garson with the fact that he accepted a bribe," says attorney Ronald Fischetti, who represents Judge Garson, and says the judge's behavior may look bad, but there's nothing illegal about any of it. "He never fixed a case. He never accepted any money on any cases whatsoever. The $1,000 was a referral fee that Paul Siminovsky said, 'You referred me a case. I received a fee. And here's the $1,000 dollars.'"

Are judges supposed to take referral fees? "Absolutely not. And he tried to give it back three times," says Fishetti. "But he didn't try to give it all back," says Stahl. "He did. The whole $1000," says Fischetti. "You see him counting it out. Put it in an envelope, opened a drawer, gave it back to him. That's our position." But Garson ended up taking it. "You've heard of the law of entrapment, I'm sure," says Fischetti, who adds that Garson showed Siminovsky no special treatment in exchange for all those meals. "The only bribe he's accused of taking is lunch and dinner with Paul Siminovsky in order to have favorable treatment for Paul Siminovsky and give him law guardianships. Now I tell you, I mean, that it is so ridiculous on its face. A person like Jerry Garson, who's a Supreme Court judge, is not going to throw on his robes for a hamburger."

"But the judge is on tape telling and coaching Siminovsky on how to win the case in front of him," says Stahl. "He's giving him lessons. He's telling him how to write memos. That's on tape." "I understand that. He had made a decision regarding the property in that case, and what he was doing is telling Paul Siminovsky, in his own words, that he had ruled his favor, and you' re gonna win. And that's wrong," says Fischetti. "He says, 'Your client's gonna win. But he doesn't deserve it,'" says Stahl. "It sounds as though he's saying, 'I shouldn't be doing this. But because of our relationship, I'm going to."

"That's not correct," says Fischetti. But 48 hours after Judge Garson took that money, detectives picked him up and brought him to a place they call "the Gulag." The $1,000 was still in his pocket. When Judge Garson saw what investigators had on tape, they say he offered to cut a deal. But in the end, it fell apart. Nine months after Frieda went undercover, the authorities arrested

Garson and charged him with receiving a bribe. Accepting all those free lunches could put the judge behind bars for up to seven years.

When investigators raided Elmann's warehouse, they found a treasure trove of documents. "When these drawers are opened, you feel like you're in a satellite file room for the matrimonial court," says Downey. Investigators arrested Elmann, retired court clerk Paul Sarnell, and Judge Garson's court officer Louis Salerno. They were accused of taking bribes to steer cases to Garson's court. A surveillance tape shows Salerno accepting a bribe, a bag full of electronics, right on the courthouse steps. "It's a conspiracy, first and foremost," says Downey, who adds that the unraveling of it all started with Frieda. But there were dozens of women who say that because of Judge Garson, they lost custody of their children. Sigal Levi, the woman whose divorce Garson was discussing in the undercover tape, had always suspected corruption. In fact, she's the one whose tip to Frieda about Elmann started Frieda on her crusade.

Garson was arrested before he ruled on Levi's case, but her estranged husband pleaded guilty to conspiring to bribe the judge. " He told me he went to the right people to take care of me," says Sigal Levi. Her husband paid Elmann $10,000. Ironically, he says he's the victim, and that he only did it because Elmann threatened him and said he'd lose everything if he didn't pay up. "I knew about Sigal's divorce probably before she did. I knew her name, what was going on," says Lisa Cohen, who knew because she and her husband were friendly with Elmann. "I knew that he had the judge in his pocket. I knew that he was very friendly with the judge as well as he had a very intimate rapport with Paul Siminovsky. … From the horse's mouth, he told me, 'Any favor you need, the judge is in my pocket.'" So when Cohen and her husband went through their own divorce later that year, she says she was terrified: "I received the notice in the mail to appear in Supreme Court. And sure enough, Judge Garson's name was right there. Said that's it. I'm doomed. I'm fixed. And it's all over."

The district attorney has not charged Cohen's ex-husband with any wrongdoing, but she still believes her husband's friendship with Elmann hurt her. She feels Judge Garson shorted her on child support. Garson has not been charged with fixing any decisions, but an administrative judge has been appointed to review his divorce and custody rulings. Elmann, the man alleged to be the gatekeeper of Garson's corrupt court, sat down with ***48 Hours***for his first interview. He had his lawyer, Gerald McMann, by his side.

Did he ever bribe Judge Garson? "Absolutely not," says Elmann. And Siminovsky? "I was not under the impression that I was bribing him," says Elmann. In fact, Elmann has been charged with conspiracy to bribe practically everyone in Judge Garson's court, from employees Salerno and Sarnell, to Siminovsky, to Judge Garson himself. But Elmann says he never really knew the judge, and that he was just trying to hook people up with a lawyer the judge seemed to favor: "I was really showing off that I'm a big shot, and that was my biggest mistake that I live was showing off."

"When you told Frieda that if she didn't pay, she was going to lose her kids in 30 days, what did you mean," asks Stahl. "There's no question that his responses to her on many occasions, if they were true, would be criminal. But they weren't true," says McMann. "He was telling these people that 'I have the judge in my pocket. Oh, I just got off the telephone with Judge Garson. I just did this.' None of these things were true, not a single one."

Did Elmann mislead Frieda? "I might have done that," he says. "Just to calm her down." Elmann now says he lied to Frieda when he told her that her ex-husband had already bribed the judge. And in fact, there is no evidence that her ex slipped anyone

any money, and he has not been charged with any wrongdoing. Still, Elmann convinced Frieda that her ex was up to no good, and took $9,000 from her. He says he gave it all to Siminovsky. “Not even one cent [did I keep],” says Elmann. “Everything, I give it to, not even one cent.” “What did he do for anybody except his pocket. That’s it. What did he do? He destroyed children’ s lives, and I don’t have answers for my children. I just don’t,” says Cohen. But Elmann and his attorney believe that if anyone’s motives should be in question, it should be Frieda’s. “Frieda Hanimov is not a crusader, trying to clean up corruption in Brooklyn. Nor is Joe Hynes,” says McMann. “Frieda is a useful tool so that Joe Hynes can get publicity for his case.” Is McMann suggesting that Frieda is not a very truthful person? “I’m not suggesting it,” says McMann. “I’m stating it categorically. She’s a liar.”

McMann calls Frieda a child abuser who found a way to get the charges dropped. Did she hit her child? Vecchione says, “None of us believe she did. She felt that the husband had been manipulating her child, which is what happened.” But Frieda still has to convince the court that she’s the better parent to raise her oldest son. And for two years after Judge Garson’s arrest, she’s still fighting for custody. Finally, Yaniv, who still says his mother hit him, agrees to live with her because he wants to be near his school. “I got my son back. It’s like my heart is like jumping up and down. This is every mother’s dream,” says Frieda. “You know, to have kids back. I can’t express that. This is a big win for me. A big win. I’m so glad. We got it.”

It seems that women all over the country have heard about what she’s done.

“I’m just a mother, who fight the system and won,” says Frieda, who’s being compared to Erin Brockovich. Every month, women gather at Frieda’s house. And if Frieda hears what she thinks is evidence of corruption, she calls her new friends in law enforcement. “If I can help those people,” she says. “I was there once. If I can help those women, why not?” In the wake of Judge Garson’s arrest, court administrators have formed a new commission to reform New York’s divorce court. On this day, Judith Sheindlein is speaking. Before she was TV’s Judge Judy, she was a family court judge in New York for 25 years. She says Judge Garson’s case is a wakeup call for New York and the rest of the country. “I don’t know all the facts. I only know what I read in the paper,” says Sheindlein. “But certainly, here is a man who has brought the judiciary into disrepute because of at least his stupidity. At least his stupidity.” And she says she’s met plenty of judges with bad judgment. “There’s no question in my mind that decisions are made every day in cases, made because of cronyism,” says Sheinlein.

Whether or not Judge Garson is found guilty, the district attorney credits Frieda with forcing the leadership of the court to re-examine how they pick judges, handle custody cases, and train law guardians. “Has Frieda done that? You bet she did,” says Hynes. “Were it not for Frieda, I doubt very much if anyone would have known about it.” Now, Hollywood has come calling. A screenwriter is following Frieda around. The script line is simple: A Russian immigrant, for whom English is a third language, exposed a potential sewer of corruption in an American court. Electronics salesman Nissim Elmann has pleaded not guilty and goes on trial next week. Retired court clerk Paul Sarnell was found not guilty of all charges. Court officer Louis Salerno was convicted of receiving a bribe and is awaiting sentencing.

Judge Gerald Garson has pleaded not guilty and will be tried this fall.

http://carvercountycorruption.wordpress.com/2011/09/14/chamber-of-secrets-cbs-news/

Bill of Rights for Children in Divorce and Dissolution Actions

rifoja9: July 31, 2011 8:13 PM, Posted and Edited by Patrice Livingston

1. The right to be treated as important and separate human beings with unique feelings, needs, ideas, and desires, not existing solely to gratify the needs of their parents.
2. The right to not participate in the painful games parents play to hurt each other, or be put in the middle of their battles.
3. The right not to be a go-between or a message courier for their parents.
4. The right to a continuing, relaxed, and secure relationship with both parents.
5. The right to express love and affection for, and receive love and affection from, both parents.
6. The right to know that expressions of love between children and parents will not cause fear, disapproval, or other negative consequences.
7. The right to know that their parents decision to divorce is not their fault.
8. The right to know that it is not their responsibility to keep their parents together.
9. T he right to continuing care and guidance from both parents.
10. The right to age appropriate answers to questions about the changing family relationships, without placing blame on either parent.
11. The right to know and appreciate what is good in each parent.
12. The right to be protected from hearing degrading or bad comments about either parent.
13. The right to be able to experience regular, consistent, and flexible shared parenting time with both parents, and the right to know the reason for changes in the parenting schedule.
14. The right to have neither parent interfere with, or undermine, parenting time with the other parent.
15. The right to not be forced to choose one parent over the other.
16. The right to express their feelings, concerns, and ideas about the divorce.
17. The right to remain a child without being asked to take on parental responsibilities or to be an adult friend or companion to either parent.
18. The right to the most adequate level of economic support that can be provided from the best efforts of both parents.
19. The right to continue ongoing positive relationships with the people (friends, neighbors, grandparents and extended family) who were an important part of their lives before parental divorce.

Originated with the NJ-AFCC; http://www.npra.info/bilofrights.htm

see also federal14: Convention on the Rights of Children

and federal13: Redefining the Child's Right to Identity

Cross References:

references (2)

federal14: Convention on the Rights of Children

federal13: Redefining the Child's Right to Identity

2011 UN Report on the Progress of Women

rifoja20: August 8, 2011 6:53 PM, Posted and Edited by Patrice Livingston

By Melissa J. Anderson (New York City)

This week marked the release of UN Women's first report, *Progress of the World's Women 2011–2012: In Pursuit of Justice* . UN Women was founded last July, in order to accelerate the UN's progress toward achieving its gender equality goals.

The report produced some tidbits that may surprise you – for example, that women in Quatar earn 142% of what men earn in the manufacturing sector, or that women hold 51% of seats in Rwanda's parliament.

But the report goes much deeper than that. The comprehensive study of women's access to justice around the world is not intended to portray women as people who need protection, but to seek out ways to empower women and improve gender equality. Secretary General Ban Ki-moon wrote, "This edition of Progress of the World's Women examines the injustice that far too many women endure. It also highlights how essential it is to see women as far more than victims, but as agents of change."

The aim of the report is to acknowledge the global gap between what is set down in law and what really happens, and to establish goals in narrowing that gap.

Disparity Between Law and Practice

We all know that what's written in the rule book doesn't necessarily translate to real life. In large part, *Progress of the World's Women 2011–2012: In Pursuit of Justice* is dedicated to identifying those countries that are not walking the talk when it comes to gender equality.

Under-Secretary-General and Executive Director of UN Women Michelle Bachelet emphasizes in her opening letter that while women have made great strides in the past century, there is much to be done. She wrote:

> *"[The report] shows that where laws and justice systems work well, they can provide an essential mechanism for women to realize their human rights.*
> *However, it also underscores the fact that, despite widespread guarantees of equality, the reality for many millions of women is that justice remains out of reach."*

Bachelet means that, just because 125 countries have outlawed domestic violence and 115 guarantee equal property rights, that doesn't mean those legal guarantees hold up in practice, and the report is an acknowledgment of this.

The report says:

> *"In many contexts, in rich and poor countries alike, the infrastructure of justice – the police, the courts and the judiciary – is failing women, which manifests itself in poor services and hostile attitudes from the very people whose duty it is to fulfill women's rights. As a result, although equality between women and men is guaranteed in the constitutions of 139*

> *countries and territories, inadequate laws and loopholes in legislative frameworks, poor enforcement and vast implementation gaps make these guarantees hollow promises, having little impact on the day-to-day lives of women."*

For example, as the report says, "despite decades of equal pay legislation, wage gaps remain wide and persistent across all regions and sectors."

And in many cases the justice chain works against women as well, with attrition from the justice system at startling levels. For instance, as the report explains, that in Gauteng Province, South Africa, "only 17 percent of reported rapes reached court and just 4 percent ended in a conviction for rape."

And that's not counting the women who aren't even protected by law. According to the study, "Some 600 million women, more than half the world's working women, are in vulnerable employment, trapped in insecure jobs, often outside the purview of labour legislation."

Recommendations

The report put forth ten recommendations for closing the gender disparity between law and practice.

1. Support women's legal organizations.
2. Support one-stop shops and specialized services to reduce attrition in the justice chain.
3. Implement gender-sensitive law reform.
4. Use quotas to boost the number of women legislators.
5. Put women on the front line of law enforcement.
6. Train judges and monitor decisions.
7. Increase women's access to courts and truth commissions during and after conflict.
8. Implement gender-responsive reparations programmes.
9. Invest in women's access to justice.
10. Put gender equality at the heart of the Millennium Development Goals.

> By increasing focus on gender and getting more women involved in positions of power, equality can be achieved. Women who serve as role models can inspire and empower women around the world – and they can also improve the chain of justice. In many countries of the world, the rule of law still rules women out.
>
> In every region, there are laws that discriminate against women, in relation to property, the family, employment and citizenship. Too often, justice institutions, including the police and the courts, deny women justice. But, governments and civil society are pioneering innovative approaches to ensure that women can access justice
>
> Catalyzing gender-sensitive law reform, investing in one-stop shops and providing reparations for women are just some of the responses that are making a difference. Women parliamentarians, lawyers, judges and activists are driving change and making a difference

Ensuring women are in parliaments, are on the front-line of justice, and are represented in the judiciary and customary justice systems helps women to access their rights.

Groundbreaking strategic litigation has been used in every region to expand access to justice for millions of women.

see 12 page Executive Summary Here in @1
see 168-page Full Report here in @2
original source: http://progress.unwomen.org/

Attachments:

1. 2011-2012EN-ExecSummary-Progress-of-the-Worlds-Women1.pdf (423 KB)
2. 2011-2012-EN-FullReport-Progress.pdf (9.6 MB)

Accommodating Children's Human Rights

federal11: August 9, 2011 9:17 PM, Posted and Edited by Patrice Livingston

by Jan Fortin in The Modern Law Review Volume 69 May 2006 no. 3
Accommodating Children's Rights in a Post Human Rights Act Era

Abstract: This article considers why so little case law currently acknowledges that children have recognisable rights under the European Convention on Human Rights and agruges that the family courts are not meeting the demands of the Human Rights Act 1998 in this regard. It suggests that a reinterpretation of the "paramountcy principle" in the Children Act 1989 should be accompanied by a radically different judicial approach to evidence relating to children's best interests. The article considers the difficulties that such an approach might produce when applied to teenagers intent on refusing life-saving medical treatment. It further argues that the courts should call on the substantial body of rights jurisprudence to provide legal and moral support for this revised approach.

INTRODUCTION

he implementation of the Human Rights Act 1998 (the HRA) is now part of our legal history. Nevertheless, the domestic courts are still only flirting with the idea that children are rights holders under the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (the European Convention). The purpose of this article is to consider the ways in which domestic law would have to change to accommodate a new approach to children's cases. Articulating any evidence relating to children in terms of their rights, rather than their welfare, would obviously require a radically different approach to judicial decision-making. This is explored, together with a suggested realignment of evidence normally presented in terms of the child's welfare or best interests. Lastly, the feasibility of this model of working is examined in the context of the legal principles governing teenagers' autonomy.

The domestic courts have responded to the demands of the HRA in an extraordinarily haphazard manner when dealing with children's cases. As Bainham has pointed out, in many areas of law involving children, there has been little attempt to articulate children's interests as rights.' As a brief review of the domestic case law shows, it is only when children are themselves the litigants that the courts consistently articulate their rights.

Summary(partial)

The emerging case law suggests that a teenager's claim to exercise his autonomy based Convention rights will be made to hinge on his ability to comprehend what is involved in the decision itself. Such an approach is probably in tune with society's growing endorsement of individual freedoms.Whilst conforming with a choice or will theory of rights, in practice it is neither logically water tight nor free of dangers. On the other hand, as discussed above, an interest theory of rights allows conceptions of the child's welfare to be accommodated within conceptions of his interests or rights. Meanwhile this theory does not involve rejecting the concept of children having an interest in making choices and therefore their interest in autonomy. Children may indeed have some rights to self-determination based on their interest in choice, without having a right to complete autonomy.

An analysis based on an interest theory of rights withholds the right to complete autonomy, including the right to make all fundamental decisions regarding his future, until the teenager reaches a required level of maturity, measured not only by

reference to his powers of comprehension. At this level, he is deemed to be on a par with adult rights holders, with no paternalistic interventions available to protect him from the hazards of dangerous decision-making. Before then the courts are entitled to deny him the right to reach decisions which will materially threaten his adult wellbeing. Such a stance is a morally coherent one, reflecting the view that the status of minority carries a legal significance. It is designed to protect children from the dangers of adulthood, more particularly from making life-threatening decisions.

see full article here in @1

Attachments:

1. Accommodating Childrens Rights.pdf (3.7 MB)

Legal Ethics Real and Imagined

rifoja25: August 9, 2011 9:26 PM, Posted and Edited by Patrice Livingston

by Barry Goldstein

Battered women's advocates are increasingly concerned about the difficulty for protective mothers to find ethical and competent attorneys to protect them in the broken custody court system. Attorneys for mothers often take all their money and then abandon their client when her money runs out. Even worse, these attorneys pressure women to accept unsafe settlements, fail or refuse to present important information to the court and too often cooperate with the judge and other professionals in undermining her case.

Attorneys often have a conflict of interest in that they will be appearing before the judge in many other cases and do not want to act in a way that could undermine their position in other cases they might consider more important. Such practices violate legal ethics that require attorneys to zealously represent their clients. Although many protective mothers have filed complaints about such unethical practices, the complaints are not taken seriously.

The legal system often refers to the victims as "disgruntled litigants" to justify the failure to investigate such ethical lapses. The fact that such unethical behavior makes it easier for judges and discourages accountability for the court system's failure to protect battered mothers and their children encourages the system's practice of dismissing these complaints.

What is an ethical attorney supposed to do when the rewards for going along with unethical practices are great and challenging improper practices is actively discouraged?

They don't teach about this in law school, but this is a common dilemma in the present custody court system. I faced this issue when I agreed to represent a protective mother in the Shockome case in Dutchess County. Although the mother was the primary parent, a gifted mother and the victim of extensive abuse by the father, the court had given custody to the abuser and limited the mother to supervised visitation without an evidentiary hearing on the merits of the petitions in front of the court. Three prior attorneys had represented the mother. They charged large sums of money while failing to challenge the court's use of gender bias and discredited domestic violence practices. The prior attorney agreed to a second evaluation under terms that it would only be used if it were unfavorable to his client. At the initial conference I attended, the judge said all her prior attorneys agreed she was not credible. If that were true it would mean her attorneys acted unethically.

The statement also supported my belief that the judge had fostered an atmosphere to pressure court professionals to support his beliefs. The domestic violence agencies in Dutchess County were concerned that the custody court was favoring abusers and had severely mistreated many of their clients. Inmuch the way civil rights leaders selected Rosa Parks to challenge segregation laws on buses because of her outstanding moral character, the domestic violence agencies picked Genia Shockome as a case to devote their resources because her case was so strong and parenting skills enviable. Throughout my involvement in the case, domestic violence advocates filled the courtroom in support of the protective mother. Although I have a long history of representing battered women, I have never seen that level of support in any other case.

Domestic violence agencies are an important resource in any community. They are the only professionals who work full time on domestic violence issues. They have more training and experience about domestic violence than the "experts" courts often rely upon because of the letters after their names. These agencies have limited resources and must screen their clients before

providing services. This means a woman receiving such services is extremely likely to be a victim of domestic violence.

During my first appearance in the Shockome case, the judge immediately called for a conference with attorneys only. The first thing he said was that he would not be intimidated by the women in the back of the room. The domestic violence advocates had not made any threats so this extremely defensive reaction raised grave concerns about his ability to give my client a fair hearing.

After this first appearance, we decided to make a motion to recuse the judge. This was based upon his statements about the domestic violence advocates and prior attorneys, the extreme action he had taken without a hearing, unfair and improper practices including use of the Parental Alienation Syndrome which is illegal in New York (the judge admitted PAS is illegal to use but claimed he was using parental alienation not PAS. The law guardian, however admitted the decision was based on PAS) and stories I had heard from other abused women and their advocates. The grievance committee, ignoring the other grounds for the motion claimed it was unethical to make a motion for recusal after only one appearance when I had not read the entire file of the women who contacted me about their cases (I did not plan to represent them). This was a standard that was not applied to the grievance committee lawyers, judge and appellate division judges who made statements unquestionably wrong after failing to review basic information in the record.

The New York Court system's own Committee on Women in the Courts had issued a report finding extensive gender bias and specifying common examples of the use of gender bias in the courts. Courts most often engage in gender bias without realizing they are doing so. Accordingly if an attorney representing a client victimized by gender bias fails to raise the issue, the client has no chance of receiving fair consideration of her claims. This is exactly what was happening in the Shockome case that was permeated by gender bias.

In removing the children from the mother's custody, the court relied on an evaluation that said the mother is a strong and articulate woman so could not possibly need a domestic violence advocate. All of the experts who testified in the case were outraged by this statement and understood the statement demonstrated the evaluator was not qualified to participate in a domestic violence case. The judge ignored the problem when it was presented to him.

The basis of the court's approach was to blame the mother for her fear of the father and attempts to protect the children from the abuser. In other words the judge blamed the mother for her normal reaction to the father's abuse. Even though the abuser never missed a visit he was entitled to when the children lived with the mother, the court treated the mother as if she was trying to interfere with the father's relationship with the children.

Throughout the case, the father's claims were disproved by other evidence including his own admissions when confronted with neutral evidence. The mother's claims were supported by multiple witnesses and other evidence. Nevertheless, as is common in gender bias, the court gave the abuser more credibility than his victim. The judge did not know what to look for to recognize domestic violence and understand the pattern of coercive control by the father. The court also imposed a higher standard of proof on the mother that was demonstrated later with its use of a certainty standard for the mother and probability standard for the father.

What is an ethical attorney supposed to do when his client cannot receive fair consideration of her case because of the court's gender bias? I attempted to educate the judge both about domestic violence in general and how it applied to the immediate case. I cited and discussed a brilliant article "Evaluating the Evaluator" by Lynn Hecht Schafran. This is a wonderful example of gender bias because it shows how even a woman, acting in good faith can unintentionally engage in gender bias against a

mother. I described some of the work I do and training I receive as an instructor in a domestic violence program for men. The approach is to focus on how systemic issues can make it normal for men to engage in sexism without realizing they were doing so. I also provided historical context for the research in domestic violence to demonstrate the approaches the judge was using had been discarded after they were shown to be ineffective. There was a good reason I used the most benign approach in my attempt to help the judge see the mistakes he had made. He was extremely defensive and I needed to find a way not only to give him the up-to-date research he needed, but also to give him a chance to hear it. Despite my good faith approach, the judge and grievance committee repeatedly took my statements out of context, without basic domestic violence understanding to create the illusion I was engaging in baseless attacks on him.

After the judge ignored the overwhelming evidence and gave custody to the abuser and continued to limit the protective mother to supervised visitation, and the appellate division affirmed the case by blindly deferring to the judge and ignoring significant legal issues, Newsweek magazine made a thorough investigation of the case. The reporter took months speaking with myself and the protective mother, abuser and his attorney, national experts in domestic violence and representatives of male supremacist groups. Most important she reviewed the extensive records of the case. The result was a powerful article and one of the few times the national media has exposed the pattern of abuse in the custody court system. Newsweek used the Shockome case to illustrate the problem in the custody court system where the use of PAS has resulted in thousands of children being sent to live with abusers. PAS is a bogus theory, unsupported by scientific research that is used by male supremacists to prevent investigation of domestic violence and child abuse allegations. Although it is not used by mental health professionals for any purpose outside of giving custody to abusers, and it not permitted in other courts because of a lack of scientific justification, custody courts have frequently admitted this voodoo science with tragic consequences.

Upset that their cruel practices had been exposed, the male supremacists launched an attack on the Newsweek article. Using incomplete material and statements from the abuser in the Shockome case (without using his real name) the male supremacists claimed there was no evidence that the father had committed any abuse. These were the same male supremacists who gleefully hailed the unprincipled decision against me. In reality, just the evidence of those supporting the father proved him to be an abuser. The abuser acknowledged that he told his wife that he brought her here from Russia and she has no right to leave. He also said she would never get away from him. These statements demonstrate the father’s motivation for seeking custody although he had little involvement with the children before the separation. The judge, looking only for evidence of physical abuse ignored this revealing evidence.

The visitation supervisor (later jailed for fraud in an unrelated matter) admitted the mother suffered a panic attack when she unexpectedly encountered her abuser. The court appointed evaluator supported the abuser because she said she was influenced by her belief the judge and law guardian wanted him to have custody. Under cross-examination, however she admitted the father probably abused the mother physically, verbally and emotionally throughout the marriage and the children probably witnessed his abuse; there was no alienation, the mother is a safe parent and the father’s abuse probably caused the mother’s PTSD. What the male supremacists were saying was there wasn’t any evidence of the father’s abuse in the judge’s decision and that is because he ignored inconvenient evidence. In reaching their demonstrably false conclusions no court handling the Shockome or Goldstein case, nor their male supremacist supporters has explained how they can claim their was no evidence in light of the full record nor how to justify decisions based upon a certainty standard for the mother and probability standard for the father.

Recent research confirms that courts have made all too frequent mistakes in giving custody to abusers. This, however, does not mean the judges have acted unethically. Most judges never received any domestic violence training in law school and the

professional training is often inadequate. Accordingly it is quite possible for judges to make serious mistakes while acting in good faith. From an ethical standpoint, the cases of most concern are those with extreme outcomes and where retaliation is used. Judicial ethics require not only that judges avoid improprieties, but also that they avoid the appearance of conflicts of interest or other unethical behavior. Many of the mishandled cases involve allegations of domestic violence or child abuse that the court fails to recognize and retaliatory allegations of alienation that the court believes and acts upon. I can understand when the court believes the alienation allegations and fails to recognize his abuse it would award custody to the alleged abuser.

Too often, however the court wants and expects the protective mother to stop believing that the father is an abuser. When she continues to present evidence of the father's abuse, many judges are not open to the idea they made a mistake and instead seek to punish mothers for their beliefs. The result is often supervised visitation or no contact with the children. These extreme results create an appearance of bias and impropriety because the decision appears to be based upon the mother's failure to accept the court's conclusions rather than the best interests of the children. This appearance of impropriety occurred in the Shockome case when the court imposed supervised visitation against the mother and children and tolerated the father's decision to end all visitation. Ironically this was after the judge said his approach was designed to make sure the children kept both parents in their lives. The court never reconsidered its approach after its approach failed to meet this goal. If there was a basis for these extreme orders, there would be evidence and research that not only demonstrates that the alleged alienation is harmful to the children, but that denying them a relationship with their primary attachment figure is less harmful than risking the chance the mother might say something unflattering about the father. In reality there is no research that taking a parent out of a child's life because she might make alienating remarks benefits the child. There is, however substantial research of the tremendous harm done to children by taking their primary attachment figure out of their lives.

Similarly the research establishes long term harm to children of living with an abuser. Since the evidence and research in no way supports the extreme measures, they create the appearance that the court is retaliating against the mother for challenging the court's (mis)understanding of the case. Punishing children because the court disagrees with a mother is improper. These extreme results illustrate the double standard commonly employed by the court system. There are numerous cases in which the child's father has been found to be a rapist or even convicted of murdering the mother. These abusive fathers usually will receive at least supervised visitation, but numerous protective mothers including Ms. Shockome have been denied any contact with their children. Only a broken system can take disparaging comments by a mother more seriously than rape or murder. As courts have created more Custody-Visitation Scandal Cases and received justified criticism for their mishandling of these cases, we have seen more retaliatory practices by the courts.

Contempt, jail, unfair financial burdens, constant litigation and attacks on professionals helping protective mothers are some of these retaliatory practices. It appears the purpose is to silence and destroy the credibility of someone complaining about the court 's mistakes. This creates the appearance that the judge is using his power to promote his personal interest. There are complex psychological explanations for why a judge might take such actions and I am willing to accept that some judges may be unaware of their motivations. This does not matter. If the judge creates an appearance of impropriety, he has violated judicial ethics. Ironically in the attempt to justify past mistakes by silencing victims, the court is confirming the impropriety of its actions.

In the Shockome case the mother was forced to appear without representation after I had to leave the case for medical reasons. The court held the seven-months pregnant woman in contempt and jailed her for a month after she repeatedly said "objection" in her attempt to preserve her right of appeal. Instead of telling the mother she had preserved her right to appeal, the judge took her objections as if she was trying to interfere with the judicial process. The judge received substantial and deserved criticism after

the Newsweek article exposed his mishandling of the case and as a result of the needlessly cruel decision to jail a pregnant mother. I exercised my first amendment rights by writing an article calling for a “Genia’s Law to reform the broken custody court system. The judge again retaliated, this time by filing a frivolous grievance against me.

The reasonableness of the judge’s complaint can be understood by looking at the only charge the grievance committee refused to persecute. The judge complained that when I thought about the harm the court did to the children I had tears in my eyes. The grievance committee took statements I made out of context and made them into multiple charges. At the start of the investigation I requested that they consult an expert in domestic violence so they could understand the domestic violence issues that are at the heart of the Shockome and Goldstein cases. The attorney said it wasn’t necessary because they would believe what I said, but they failed to do so. Much of the complaint concerned my exercise of my first amendment rights. Indeed the referee who heard the case expressed concerns that my first amendment rights were being violated. The grievance committee took the most extreme positions with little or no support in the evidence to argue against my opinions and statements. This is perfectly reasonable in an adversarial proceeding where each side uses the facts and arguments most favorable to their side. It is not appropriate in a disciplinary proceeding. They created an illusion that if they disagreed with my position, even on issues that I am far more knowledgeable about, I have to be a liar and therefore unqualified to practice as an attorney.

The appellate division had a serious ethical problem because they had a fundamental conflict of interest. The appellate division had issued a decision in the Shockome case in which they blindly deferred to a biased judge and they never responded to the serious legal issues raised including the use of the certainty standard for the mother and probability standard for the father. The one factual statement they made in support of their decision claimed the mother’s expert witnesses were not credible because none had spoken to the father or children. This mistake proved embarrassing to the appellate division because the experts included the couple’s counselor that both parties testified met with both parties as the essential part of her work and the child’s therapist. The abuser submitted tape transcripts of his conversations with the child’s therapist. Accordingly the appellate division was in a position where following the law and evidence would confirm that their colleagues had mishandled the previous case and failed to review the actual record.

In fairness to the appellate division, this was similar to the case involving pay for judges. There is a conflict of interest, but it has to be decided by the court because there is no one else available. Accordingly it might be ethical to make a ruling against me, but judicial ethics would require that they be careful to demonstrate the basis for the ruling in their decision. They made a decision that totally failed to explain why they reversed the parts of the case the referee got right or why they were ignoring the law and facts that seem to bar the decision to suspend my right to practice. More specifically they failed to explain how I could be disciplined for calling the judge biased when he used the certainty standard for the mother and probability for the father. They failed to respond to the referee’s concerns about the violation of my first amendment rights. They failed to respond to the problem of the decision having a chilling effect on the ability of battered mothers obtaining proper representation or the unchallenged evidence that the decision would result in the death of women who stayed with their abuser because they were afraid of losing their children if they went to the broken custody court system. They failed to explain how they could accept without evidence the conclusion of the judge after the parties stipulated that such conclusions could not be used because I was not a party in the Shockome case. They failed to explain how a tape could be admitted into evidence without the authentification that would be required in every other lawsuit in which a judge does not have an interest in the outcome. Judicial ethics required that if they decided to make such an extreme decision they had to at least answer such fundamental questions.

I was a student in Washington during the May Day demonstrations in 1971. The Nixon justice department orchestrated a police

riot in which over ten thousand mostly innocent people were jailed and the wholesale misuse of pepper gas sickened thousands more. Many students were arrested walking to or from class. As someone who grew up with a white, middle-class background, this was extremely frightening. We were taught that if something was wrong or someone was creating a danger you should call the police.

What do you do if the police are the ones causing the danger?

The courts responded by declaring the arrests illegal and compensating the victims. A few brave journalists exposed the abuses of Nixon and his aides and eventually the public demanded action. Congress responded by starting impeachment proceedings and our democracy was saved.

What do we do when the broken court system is causing the danger?

2011-H5644SubA: Crimes Against the Public Trust

leg4: July 2, 2011 7:59 PM, Posted by Patrice Livingston

Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 42-9.4

Public Corruption and White Collar Crime Unit

42-9.4-1.1 Legislative Findings - The general assembly hereby finds and declares that:

(1) Government Integrity is the backbone of efficient and effective state and municipal governments

(2) Abuse of the public trust erodes the public's confidence in public servants, as well as undermines the ability of government to work toward the public good.

(3) Recent and historical cases of the abuse of public trust has had a negative impact on the operation of state and municipal government and the state's economy.

(4) All citizens of Rhode Island heave the right to open, honest and ethical government

(5) The public needs an advocated to ensure that the policy goals and laws established to protect Rhode Islanders from abuse of the public trust are enforced

(6) In order to provide a safeguard against abuses of the public trust by public servants, the general assembly finds it necessary to establish a public corruption and white collar crime unit within the department of attorney general.

42-9.4-2. Definitions - As used in this chapter:

(1) "Public Servant" means:

(i) Any full-time or part-time employees in the classified, non-classified and unclassified service of the state or of any city or town within the state, any individuals serving in any appointed state or municipal position, any employees of any public or quasi-public state or municipal board, commission, or corporation, and any contractual employees of the state or of any city or town within the state.

(ii) Any officer or member of a state or municipal agency as defined in subdivision 36-14-2(8) who is appointed for a term of office specified by the constitution or a statute of this state or a charter or ordinance of any city or twon or who is appointed by or through the governing body or highest official of state or municipal government; or

(iii) Any person holding any elective public office pursuant to a general or special election

(2) "Abuse of Public trust" means any conduct, criminal or unethical in nature, that deprives the citizens of the State of Rhode Island and its municipalities of a government that operates in furtherance of the public interest.

42-9.4-3 Establishment - There shall be established within the department of attorney general a public corruption and white collar crime unit. The unit shall consist of at least an assistant or special assistant attorney general designated by the attorney general. The unit is authorized to perform the following duties as the attorney general may direct, including, but not limited to:

(1) Investigate potential cases of abuse of the public trust in accordance with the Rhode Island general laws;

(2) Prosecute cases of abuse of the public trust in accordance with the Rhode Island general laws;

(3) Cooperate with the United States Attorney's Office, the Federal Bureau of Investigation, the Rhode Island State Police and the Rhode Island Ethics Commission on investigations and prosecutions related to the abuse of the public trust, and

(4) Establish a whistleblower hotline for repots of potential violations regarding abuse of the public trust

42-9.4-4 Whistleblower protections -

(a) prohibition against discrimination. No person may discharge, demote, threaten or otherwise discriminate against any person or employee with respect to compensation, terms, conditions or privileges of employment as a reprisal because the person or employee, or any person acting pursuant to the request of the employee, provided or attempted to provided information to the attorney general or his or her designee or other law enforcement entities regarding possible violations of the Rhode Island general laws by public servants.

(b) Enforcement. Any person or employee or former employee who believes that he or she has been discharged or discriminated against in violation of subsection (a) may file a civil action within three (3) years of the date of discharge or discrimination

(c) Remedies. If the court determines that a violation has occurred, the court may order the person who committed the violation to:

(1) Reinstate the employee to the employee's former position:
(2) Pay compensatory damages, costs of litigation and attorneys' fees; and/or
(3) Take other appropriate actions to remedy any past discrimination

(d) Limitation. The protections of this section shall not apply to any person or employee who:

(1) Deliberately causes or participates in the alleged violation of law or regulation; or
(2) Knowingly or reclessly provides substantially false information to the attorney general or his or her designees

42-9.4-5 No derogation of attorney general -
(a) No provision of this chapter shall derogate from the common law or statutory authority of the attorney general nor shall any provision be construed as a limitation on the common law or statutory authority of the attorney general

SECTION 2: This act shall take effect upon passage.

Cross References:

commented on by (1)

leg5: re: 2011-H5644SubA: Crimes Against the Public Trust

emailed by (5)

pvl64: Emailed Articles
sparkki3: Three Articles from Rhode Island
pvl41: Emailed Articles
pvl40: 2011-H5644SubA: Crimes Against the Public Trust
pvl9: 2011-H5644SubA: Crimes Against the Public Trust

Title 18 U.S.C. § 2. Principals. - Obstructing Justice

legal46: August 21, 2011 3:15 PM, Posted by Patrice Livingston

Title 18 U.S.C. § 2. Principals. (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

> Note: The legislative intent to punish as a principal not only one who directly commits an offense and one who "aids, abets, counsels, commands, induces or procures" another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States. Case law decisions: *Rothenburg v.* United States, 1918, 38 S.Ct. 18, 245 U.S. 480, 62 L.Ed. 414, and *United States v.* Giles, 1937, 57 S.Ct. 340, 300 U.S. 41, 81 L.Ed. 493**.**

Rhode Island CHAPTER 9-1.1 The State False Claim Act

legal60: September 23, 2011 1:10 PM, Posted by Patrice Livingston

The people need to know that our public servants are not above the law.

Cross References:

emails (3)

- legal27: re: Rhode Island CHAPTER 9-1.1 The State False Claim Act
- legal26: re: Rhode Island CHAPTER 9-1.1 The State False Claim Act
- legal25: Rhode Island CHAPTER 9-1.1 The State False Claim Act

Cut TANF Title IV-D programs which represent $4Billion of waste.

policy43: September 28, 2011 6:25 PM, Posted by Patrice Livingston

WHY THIS IS IMPORTANT

This letter is to request that you take action to cut spending on pork barrel spending on certain TANF Title IV-D programs which represent $4 billion untraceable dollars that no one keeps track of. These funds meant for needy children were diverted and wasted by the US Department of Health and Human Services (HHS) to non needs based programs available to all fathers engaged in the family court litigation industry---no matter how wealthy they are. These parents now ask Congress to take a stand to hold ACF's defective leadership and the programs destroying families accountable by demanding the following budget cuts:

1. TANF Contingency Fund authorized under 403(b) Social Security Act for payment to States and other non-federal entities under Titles I, IV-D, X, XI, and XIV "to remain available until expended." (p. 474)

2. ID Code 75-1552-0-1-609, lines 0005 and 0009 [$990 million] (p. 473)

3. ID Code 75-1501-0-1-609 lines 0002, 0003 [Access and Visitation] [$1.7 billion] (p. 474)

4. Discretionary "Child Support Incentives" to States [$305 million] (p. 475)

5. ID Code 75–1512–0–1–506 "Healthy Families" [$1.7 billion] (p.476)

6. ID Code 75–1512–0–1–506 "Abstinence Education" [$1.7 billion] (p. 477)

7. Line 0129 "Faith Based Initiatives" [$1 million] (p.479)

Struggling parents want things like jobs, housing, education, childcare, and access to medical care to help them weather the current economic crisis. Instead, these hard working families are forced to invest $4 Billion in irresponsible, extortion based, Temporary Aid to Needy Families (TANF) programs that promote widespread Medicaid and child support fraud, protracted high conflict litigation, and bogus therapy programs.

Child support agencies deliberately withhold and mismanage billions of paid collected support, which starves children onto TANF and causes parents to be falsely prosecuted for nonpayment.

Good parents are being exploited, bankrupted, and emotionally destroyed while their kids are needlessly placed on the welfare, Medicaid, and foster care system rolls. Billions of dollars of child support remains unaccounted for nationwide.

These frivolous programs spend without restraint and direct money to places HHS cannot identify (as noted by the OIG and GOA reports on the second page.) There is no oversight. DHHS's position is that once the money goes to the states, they are not responsible for oversight. Fraud is rampant, yet the OIG does nothing to enforce the laws to protect families.

90% of the parents paying child support are fathers. Using child support enforcement programs as a vehicle, these extortion based programs force fathers to elect between criminal penalties and inciting "high conflict" family court litigation to create a " need" for their own publicly funded services. These irresponsible programs cash in on the "incentives" by placing children in unstable homes, and then starve the entire family onto some sort of public assistance. We can identify no legitimate purpose for

these programs and request that Congress take the following actions:

(1) Revoke or reduce funding to Administration for Children and Families (ACF) child support incentives, Access and Visitation (AV) programs, and gender based funding to child support agencies.

(2) End collateral child support/custody funding mandates.

(3) Overhaul Office on Child Support Enforcement (OCSE) on the federal level to remove staff with conflicts of interest and bias.

(4) Audit OCSE to find out where our tax dollars are actually going, and then implement rigorous transparency, oversight, and accountability measures on programs.

The [unlawful] programs are supposed to be ADMINISTRATIVE, but they used quasi judicial power to create, amend, and enforce court orders without judicial authorization. The agency does not provide due process, nor do they have to show you their files. Judges have to look the other way because if they object, they will lose their HHS funding, and at the same time the judge has to accept responsibility for the agency's badly managed and even crooked interference when litigants are hurt.

On the author's family court case, the bills were inflated and no one would let me have receipts for services, without telling me or the judge, support orders were modified, documents falsified, and support enforcement would not let me see their files. Like hundreds of families I am aware of, this money was used to force my family into needless litigation which cost me tens of thousands of dollars.

In 2011, we ask why the Obama Administration inexcusably ignored the pleas of desperate hard working parents and doubled the budget for these pork barrel projects, starving them out of their home. It's time to get serious about deficit reduction, and require the president to exercise fiscal restraint on programs which would target and extort families under the most trying circumstances.

SUPPORTING DOCUMENTATION: WHERE DOES CHILD SUPPORT GO?

Recovery Act: Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes
http://www.gao.gov/products/GAO-11-686T

This Government Accountability Office report recently came out which shows that these HHS grant recipients owe us struggling tax paying families hundreds of BILLIONS in taxes.

OIG STATE AUDIT REPORTS ON UNDISBURSIBLE ARREARS
The more federal dollars were receive the less States collected in support. States refuse to distribute child support to "families first," and are instead keeping the money for themselves-without accounting for it.

These reports can be found here:
http://oig.hhs.gov/reports-and-publications/oas/acf.asp

The Office of the Inspector General found HUNDREDS OF MILLIONS of dollars in undisbursed child support which was never accounted for when it audited the child support services programs from only a hand full of counties in approximately 30

states. There are only incentives to COLLECT support and put families on TANF, and NONE to actually disburse it to the children it is intended to benefit. When undistributed arrears were discovered, the OIG ordered the States to give 66% to the federal OCSE office, and allowed the State to keep the remaining 34% for themselves. And so the states deliberately don't tell parents they collected the money, then create "set up to fail" disbursement methods to retain the funds for the general fund:

• send checks to the wrong address,
• illegal liens on accounts
• create massive arrears, give dad the tax benefit, then garnish the tax benefit,
• put child support it in trust accounts during litigation-that lasts more than 3 years,
• retroactively abate arrears, then keep it for themselves without telling either parent.

When the OIG identified the embezzled funds, they did not help them find the children it was intended to benefit, the OIG instructed States to properly report…So the feds could have their 66%. This policy entirely lacks accountability or consequences for this fraud. Subsequent reports demonstrated that the problem has continued to worsen, and there are [still] no protocols and procedures in place to define, identify, and track these monies.

Healthy Marriage And Responsible Fatherhood Initiative: Further Progress Is Needed in Developing a Risk-Based Monitoring Approach to Help HHS Improve Program Oversight:
www.gao.gov/new.items/d081002.pdf

•$500 Million Unconditionally Given To Activists: Operating under a deadline that allowed HHS 7 months to award grants, HHS shortened its existing process to award Healthy Marriage and Responsible Fatherhood grants to public and private organizations. During this process, HHS did not fully examine grantees' programs as described in their applications, including the activities they planned to offer, and this created challenges and setbacks for grantees later as they implemented their programs. –P. 2

•Failure to Implement Uniform Standards, Policies, and Procedures: HHS uses methods that include site visits and progress reports to monitor grantees, but it lacks mechanisms to identify and target grantees that are not in compliance with grant requirements or are not meeting performance goals, and it also lacks clear and consistent guidance for performing site monitoring visits. –P.2

•Embezzlement and Fraud Was Likely Vastly Under Estimated: Moreover, we did not survey organizations that received money from grant recipients to provide direct services, subawardees. Since making the initial awards, 4 organizations have relinquished their grants, 1 organization had its grant terminated, and 1 new grant was awarded. There are 6 organizations currently pending non-continuation of award funds.

GAO REPORT: Child Support Enforcement: Better Data and More Information on Undistributed Collections Are Needed
http://www.gao.gov/products/GAO-04-377

Medicare and Medicaid Fraud, Waste, and Abuse: Effective Implementation of Recent Laws and Agency Actions Could Help Reduce Improper Payments
http://www.gao.gov/products/GAO-11-409T

Child Support Enforcement: Departures from Long-term Trends in Sources of Collections and Caseloads Reflect Recent Economic Conditions
http://www.gao.gov/products/GAO-11-196
In fiscal year 2009, the child support enforcement (CSE) program collected about $26 billion in child support payments from noncustodial parents on behalf of more than 17 million children. The CSE program is run by states and overseen by the Department of Health and Human Services (HHS). States receive federal performance incentive payments and a federal match on both state CSE funds…The Deficit Reduction Act of 2005 (DRA) eliminated this incentive match beginning in 2008, but the American Recovery and Reinvestment Act of 2009 temporarily reinstated it for 2 years….

In fiscal year 2009, the CSE program experienced several departures from past trends. For one, child support collections failed to increase nationwide for the first time in the history of the program in fiscal year 2009… Also in fiscal year 2009, the number of CSE cases currently receiving public assistance increased …Preliminary HHS data show that total CSE expenditures grew by 2.6 percent in fiscal year 2008 as many states increased their own funding to maintain CSE operations when the federal incentive match was eliminated…In contrast to fiscal year 2008, a different picture emerged in fiscal year 2009, when the incentive match was temporarily restored but total CSE expenditures fell slightly by 1.8 percent, which HHS officials told GAO was due to state budget constraints. Most states nationwide have not implemented "family first" policy options…because giving more child support collections to families means states retain less as reimbursement for public assistance costs.

Administrative Expenditures and Federal Matching Rates of Selected Support Programs
http://www.gao.gov/products/GAO-05-839R

Sincerely,

Change.org Petitioner

original source pulled 28 sept 2011 from:
http://www.change.org/petitions/cut-tanf-title-iv-d-programs-which-represent-4billion-of-waste

see cs2: 2011-12 TANF Funding Report to Congress for RI writeup

Cross References:

references (1)

cs2: 2011-12 TANF Funding Report to Congress

Applying The Law In Family Law - Sept 7th, 2011

pvl98: September 1, 2011 12:09 AM, Posted by Patrice Livingston

http://www.meetup.com/NFOJA-and-Fallout-Shelter-meetup/events/31144962/?a=ea1.2_grp&rv=ea1.2

Wednesday, September 7, 2011, 7:00 PM

SELECTED BY: ZENA CRENSHAW LOGAL

Online Symposium

Web and Phone Conferencing, World Wide Web, DC (map)

Family law judges address a wide range of facts and circumstances. So it can be difficult to establish that a family law court disregarded stare decisis, the doctrine of precedent. Yet the stability, predictability, efficiency, and welfare-enhancement that comes from appropriate adherence to precedent is particularly important in family law. "Applying The Law In Family Law" helps family law activists get the most out of "The Matthew Fogg Symposia On The Vitality of Stare Decisis in America." Through both programs participants will better relate child custody and visitation disputes as well as Domestic Violence cases to legal system reform efforts that are broader than, but impact family, parents, grandparents, and child rights.

see also https://www.facebook.com/pages/Applying-The-Law-In-Family-Law/147342165352893

Open Government at DOJ

legal53: August 24, 2011 9:09 PM, Posted by Patrice Livingston

http://www.justice.gov/opa/pr/2011/August/11-crm-1081.html

The Department of Justice is committed to achieving the President's goal of making this the most transparent Administration in history. In the Memorandum on Transparency and Open Government, issued on January 21, 2009, the President instructed the Director of the Office of Management and Budget to issue an Open Government Directive. The Open Government Directive directs executive departments and agencies to take specific actions to implement the principles of transparency, participation, and collaboration set forth in the President's Memorandum.

As a result, the Associate Attorney General convened a working group of senior Justice Department staff to oversee the development of the Justice Department Open Government Plan. We have worked with each and every component within the Department to fulfill the Open Government Directive and increase openness and transparency.

On April 7th, 2010, the Department released its Open Government Plan.

–Implementing the President's Memorandum on Open Government

UNITED STATES DISTRICT COURT – Civil Tort Action against the County… justice served again

legal31: August 12, 2011 9:34 AM, Posted by Patrice Livingston

1

All posts, Carver County / Civil Lawsuit

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Guy M. Gordon, in propria persona;

Tiffany L. Gordon, a minor child;

Jessica A. Gordon, a minor child;

Nathaniel M. Gordon, a minor child; **Civil Action Number:**

By their natural father,

Guy M. Gordon 00 423

Plaintiffs

Vs.

Honorable Donna E. Shalala;

Secretary,

U.S. Department of Health and Human Services

David Gray Ross;

Commissioner,

Office of Child Support Enforcement

Administration for Children and Families

Department of Health and Human Services

Anne F. Donovan;

Assistant Commissioner, Regional Operations

Office of Child Support Enforcement

Administration for Children and Families

Department of Health and Human services

Juanita Devine;

Program Manager, Region III

Office of Child Support Enforcement

Administration for Children and Families

Department of Health and Human Services

Commonwealth of Pennsylvania;

Honorable Tom Ridge;

Governor,

Commonwealth of Pennsylvania

Daniel Richard;

Director,

Bureau of Child Support Enforcement

Pa. Department of Public Welfare

Sherri Z. Heller;

Deputy Secretary,

Office of Income Maintenance

Pa. Department of Public Welfare

Domestic Relations Procedural Rules

Committee of the Supreme Court of

Pennsylvania;

Former Chairman, Hon. Max Baer,

Chairman, David S. Rasner, esq.

Gary G. Gentile, Esq.

Mark M. Dalton

Joanne Ross Wilder, Esq.

Hon. Paul P. Panepinto

Howard M. Goldsmith, Esq.

John C. Howett Jr., Esq.

Leslee Silverman Tabas, Esq.

Vice-Chairwoman, Hon. Jeannine Turgeon

Sophia P. Paul, Esq. “Former Counsel”

County of Allegheny, Pennsylvania;

Patrick W. Quinn, Esq.;

Assistant County Solicitor;

Manager, Child Support Enforcement

Legal Services Unit

Hon. Kathleen R. Mulligan;

Administrative Judge, Family Division;

Allegheny County Court of Common Pleas

Linda C. Liechty, Esq.;

Administrator, Family Division;

Allegheny County Court of Common Pleas

Jeannie Bingman, Esq.;

Hearing Officer, Family Division;

Allegheny County Court of Common Pleas

John Mendicino;

Custody Mediator, Generation Program-Family Division;

Allegheny County Court of Common Pleas

Andrea Dodasovich;

Custody Conciliator, Generation Program-Family Division;

Allegheny County Court of Common Pleas

VERIFIED COMPLAINT

AND

AFFIDAVIT UNDER OATH

COMES NOW, the Plaintiffs in the above styled action and complains and alleges the following Torts and Public Offenses:

1 I am Guy M. Gordon and do swear, under oath, the following complaint is true and correct. This complaint is based upon my personal knowledge of the essential facts as contained in this Affidavit.

2 Plaintiffs hereby motion this Honorable Court to subpoena and review, all documents contained in the "social files" in re: Gordon v. Gordon, 90-11580 and Sexton v. Gordon, 96-01207, for violations of Federal Criminal Laws and Statutes.

3 Plaintiffs also compel the United States Attorney General to investigate the embezzlement of the Interest made from collections (public money), by the Commonwealth of Pennsylvania.

4 Plaintiffs hereby file this Motion to compel United States Attorney General to do her duty to investigate the allegations contained in this Civil Action for violations of Federal laws. These violations are incidents resulting in damages to Plaintiffs and are claims upon which the Court may issue orders for redress and remuneration. That this Court compel the United States Attorney General to determine if a Probable Cause Hearing should be scheduled and that the United States enter into this action as a Plaintiff to protect the Constitutional Rights of Plaintiffs, others similarly situated, and to prosecute crimes against the " Public and National Interests". The District Court through the United States Attorney General to the Federal Bureau of Investigations has the authority to order an investigation to be conducted of the violations of Federal Criminal laws. If the violations are confirmed then the Court has a mandate to compel the United States Attorney General to enter this action as a Plaintiff on behalf of the citizens of the United States. The Court has a mandate under 42 USC 2000h-2 to "certify" these facts to the United States Attorney General. These violations are also considered by Plaintiffs to be actual "incidents and causes of action" for which damages have been suffered by Plaintiffs and restitution is warranted. The Federal Bureau of Investigation has

jurisdiction over investigation of the court, fraud, embezzlement of monies in a Federal financial assistance program, and civil rights violations. In 1996 the FBI brought 2,108 counts against defendants for 18 USC 242 violations for “deprivation of rights under color of law”, therefore establishing jurisdiction over this case. In 1996 the FBI brought 554 counts against defendants for “conspiracy against civil rights” therefore establishing jurisdiction over this case. In 1996 the FBI brought 854 counts against defendants for “conspiracy to defraud the United States” therefore establishing jurisdiction over this case. The United States Attorney General; Civil Rights Division-Criminal Section has jurisdiction over: “The Federal criminal civil rights statutes” (that) “provide for prosecutions of conspiracies to interfere with federally protected rights, deprivation of rights under color of law.”… The Civil Rights Division-The Special Litigation Section has jurisdiction to: “investigate state and local enforcement agencies alleged to engage in a pattern or practice of violating citizens’ federal rights and may bring civil lawsuits to remedy such abuses. ” Local child support enforcement agencies, as financed with Federal funds, incarcerate and/or threaten to incarcerate citizens at will, regardless of Federal Civil Rights violations.

5 The District Court and “all Courts” have a mandate to “report evidence of criminal activity” discovered during litigation to the appropriate enforcement agency. The United States Attorney General is the appropriate agency to enter into this action on behalf of the Plaintiffs and the United States. The Plaintiffs have a “due process and constitutional right” to report criminal activities against the United States and to have them investigated. The United States Attorney General owes Plaintiffs the right (as United States citizens) to face alleged perpetrators of crimes against Plaintiffs and the United States and to receive restitution in the form of monetary and penal actions.

6 Plaintiffs do hereby file this motion to compel the Secretary of the Department of Labor to investigate the allegations contained in this civil action and enforce the provisions of 15 USC 1676 pertaining to alleged violations of 15 USC 1671 and 1673.

7 Plaintiffs hereby state that this civil action is not, at this time, a class action, nor is it currently a criminal action until the United States Attorney General enters into the action as a Plaintiff for the United States. Plaintiffs reserve the right to change the nature of this action in future filings to join others into it as a class action.

I

PARTIES

8 Plaintiffs incorporate by reference paragraphs 1-7, as set forth in their entirety herein.

PLAINTIFFS

9 Plaintiff, Guy M. Gordon, sues in his own proper person both individually and collectively, and minor children; Tiffany L. Gordon, Jessica A. Gordon, Nathaniel M. Gordon, sue by their next friend and natural father Guy M. Gordon, and are residents of Ingram Borough, Allegheny County, Pennsylvania and are citizens of the United States of America, residing at; 112 Schley Avenue, Pittsburgh, Pennsylvania 15205-2120.

10 At all times pertinent to this complaint, the defendants, each of them, while acting in their capacities described and in doing the things hereafter set forth, were acting under color of alleged state statutes, rules, and practices and federal laws, rules and practices.

DEFENDANTS

11 **Honorable Secretary Donna E. Shalala,** United States Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, was at all times material to this complaint. Whereas, Defendant is sued individually and in her Official capacity, wherein it is alleged while cloaked "under color of law" she caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

12 Whereas, the Defendant in implementing the Federal Statutes concerning the Federal financial participation in the administration, and approval of individual State child support enforcement programs, as mandated under the Title IV-D Act, codified in 42 USC 652 (f), has promulgated Federal Regulations which each individual State must adopt and follow to be eligible for grants of Federal financial participation in their State Child Support Enforcement Plan, as listed 42 USC 655 (a)(1),(2) and (3), 45 CFR 304.11, and 45 CFR 304.20 to 304.24, and Incentive payments (bonuses), pursuant to 42 USC 658 (a), (b) and (c), 45 CFR 302.55, 45 CFR 303.52 (a), and 45 CFR 304.12 (a) and (b).

13 Obligations and approval of a State Plan are contained in 45 CFR 300 et al, subjected to abide by Federal Statutes, 45 CFR 302.13 (a) and 45 CFR 301.13.

14 The Commonwealth of Pennsylvania has represented to the Defendant via submissions in accordance with 45 CFR 301.15 and through its State Plan for support collection and establishment of paternity under Title IV-D of the Social Security Act as amended (the State Plan) that Pennsylvania complies with the Federal Regulations promulgated by the Defendant.

15 The Defendant has continually approved the State Plan of the Commonwealth of Pennsylvania through the awarding of quarterly grants of Federal financial participation, $105 million annually, towards the Commonwealth's child support enforcement program, $719 million annually towards welfare block grants, plus annual Incentives averaging $18.6 million, from which the Commonwealth "profits" $32 million/year from these two programs.

16 As alleged in this sworn affidavit and complaint, the State plan of the Commonwealth of Pennsylvania does not comply with relevant Federal regulations as mandated and contained in 45 CFR 300 et al, as promulgated by the Defendant, and is in direct violation of numerous relevant Federal statutes, subjecting Defendant to the penalties of 18 USC 1001, depriving Plaintiffs Due Process of Law and Equal Protection of the Law, both guaranteed by the Fourteenth and Fifth Amendments to the U.S. Constitution.

17 The Defendant has promulgated regulations encouraging States, as part of a State Plan, to embezzle monies earned from the " Interest" payable from collections, to offset expenditures of their IV-D program, 45 CFR 303.100 (g)(5), 304.12 (b)(4)(iii), and 45 CFR 304.50 (b), as defined in 18 USC 641, 648 and 18 USC 666.

18 These support collections and Interest earned therefrom, are monies of minor children, who are under no obligation to the State or their biological parents.

19 42 USC 666 (a)(8)(B) requires the withholding (garnishment) of wages, and 654 (a)(3) requires employers send withholding to one "central" location (designed specifically for keeping track of payments received and disbursed), not to collect "interest"

from money that is not the property of the Commonwealth.

20 Congress was clear in 42 USC 664 (a)(2)(A) as to whose money (property) the “collections” are; “The state agency shall distribute such amount to or on behalf of the child, to whom the support was owed in accordance with 657 of this title.”

21 42 USC 657 (a) “An amount collected on behalf of a family as support by a state pursuant to a plan approved under this part shall be distributed as follows: unless reimbursement for state or federal assistance to the family apply, distribution of amounts collected is to the family.

22 The only exception being support obligations assigned to the state under 45 CFR 232.11 and 471 (a)(1) of the Act.

23 Pursuant to 42 USC 659 (a) and (b) and 42 USC 654b (a)(3), Defendant is charged by Act of Congress with the safekeeping of this Interest money, but chooses to promulgate rules stipulating the theft and conversion to the Commonwealth to pay expenditures.

24 Through regulations, Defendant has created a new source of revenue for the Commonwealth, (Taxation without Representation), subjecting Defendant to the penalties of 18 USC 648.

25 Alleged violations of Regulations promulgated by the Defendant and of Federal Statutes as mandated by Congress, by the Commonwealth of Pennsylvania in its State plan, include but are not limited to: Child support guidelines established in accordance to 45 CFR 302.56, in compliance with 42 USC 667 (a), which violate, including but not limited to, the following; 45 CFR 302.56 (h) “state must consider economic data on the cost of raising children and analyze case data; 15 USC 1673 (b) and (c), 42 USC 666 (b)(1), 45 CFR 303.100 (a)(3) and (5) and (f)(I), 45 CFR 302.70(a)(1) concerning 50% maximum wage garnishment when supporting a family; 15 USC 1671 (a)(1) and (2) garnishment detrimentally effects Interstate Commerce; 42 USC 666 (a)(1)(A) and (b)(4)(A), 45 CFR 303.100(a)(6) and (h)(6), 45 CFR 303.101(c)(2) guaranteeing full compliance of Procedural Due Process.

26 The guidelines as promulgated in PA.R.C.P 1910.16 establish, on a presumption, 2 classifications of families (custodial and non-custodial) and treats members of those two classes differently, though similarly situated if not the same, without the showing of an important governmental objective.

27 The Pennsylvania guidelines as promulgated, contain no provision for dealing with the equitable support allocation for a subsequent child when dealing with two established Single Custodial families. Pennsylvania guidelines lack a basis and purpose for that omission which shows an important governmental objective, depriving Plaintiffs and others similarly situated of Due Process and Equal Protection of the Law.

28 This omission, condoned by Defendant, causes Plaintiffs severe emotional distress and the loss of life, liberty, property and reputation, and threatening the unity of Plaintiffs’ family.

29 The Commonwealth of Pennsylvania does not publicize availability of IV-D enforcement services as mandated under 45 CFR 302.30 and 42 USC 654 (23).

30 The Commonwealth of Pennsylvania does not make applications for IV-D services readily available as mandated, 45 CFR 303.2 (a)(1) and (2), 45 CFR 302.15 (a)(1), nor to non-AFDC clients, 45 CFR 302.33 (a)(I).

31 The Commonwealth of Pennsylvania uses grants of Federal financial participation to suppress, obstruct and further violate the civil rights of Plaintiffs as guaranteed by the U.S. Constitution.

32 The Commonwealth of Pennsylvania violates the Administrative Procedure Act as codified in 5 USC 552b, by circumventing responsibility to comply with 45 CFR 302.56 in establishing guidelines to a Judicial Committee which does not allow “open meetings” with “public notice”.

33 Through continued grants of Federal financial participation, the Defendant reaffirms quarterly her ratification of Plaintiffs’ deprivation by the Commonwealth of Pennsylvania of Due Process of Law and Equal Protection of the Law, thus prolongs the harm.

34 Therefore, Defendant was the direct or proximate cause of Plaintiffs’ injury and causes for relief.

35 **Commissioner David Gray Ross,** Department of Health and Human Services, A.C.F., Office of Child Support Enforcement, 370 L’Enfant Promenade, S.W., Washington, D.C. 20447, was at all times material to this complaint. Whereas, Defendant is sued individually and in his Official capacity, wherein it is alleged while cloaked “under color of law” he caused the deprivation of Plaintiffs’ civil rights and privileges secured by the United States Constitution. That he having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which he by reasonable diligence could have prevented.

36 Whereas, pursuant to 42 USC 652 (a), Defendant, designee Director of the Office of Child Support Enforcement, by the Secretary, within the Department of Health and Human Services, directly responsible to the Secretary for the administration, enforcement, and final approval of individual State plans, 45 CFR 301.13 (c) and (d), through Federal financial participation, of which is the Commonwealth of Pennsylvania’s state plan, which violates Plaintiffs’ civil rights and Federal regulations, statutes and the U.S. Constitution.

37 “The Director (Commissioner) retains authority for determining that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval, except that a final determination of disapproval may not be made without prior consultation and discussion by the Director with the Secretary”, 45 CFR 301.13 (c).

38 Through continued approval, through grants of Federal financial participation, the Defendant reaffirms quarterly his ratification of Plaintiffs’ deprivation by the Commonwealth of Pennsylvania of Due Process and Equal Protection of the law, thus prolonging the harm.

39 Plaintiff has contacted Defendant about his concerns and complaints on numerous occasions, June 16, 1998 being one of those occasions, receiving no satisfaction or relief.

40 Therefore, Defendant was the direct or proximate cause of Plaintiffs’ injury and causes for relief.

41 **Asst. Commissioner Anne F. Donovan,** Department of Health and Human Services, A.C.F., Office of Child Support Enforcement (RO), 370 L’Enfant Promenade, S.W., Washington, D.C. 20447, was at all times material to this complaint. Whereas, Defendant is sued individually and in her Official capacity, wherein it is alleged while cloaked “under color of law” she caused the deprivation of Plaintiffs’ civil rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the

power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

42 Whereas, Defendant as Assistant Commissioner, is responsible for overseeing the workings of the individual Regional Offices, including Region III, and compliance of said Regional Offices of enforcing and protecting Civil Rights and Federal Regulations and Statutes in the State's plan.

43 The Defendant, pursuant to 45 CFR 301.15 (b) is responsible in reviewing the State's plan and estimate of IV-D expenditures and other relevant information in computing the grant.

44 Through continued approval, through grants of Federal financial participation, the Defendant reaffirms quarterly her ratification of Plaintiffs' deprivation by the Commonwealth of Pennsylvania of Due Process and Equal Protection of the law, thus prolonging the harm.

45 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

46 **Juanita Devine,** Program Manager, Department of Health and Human Services, A.C.F., Office of Child Support Enforcement, Region III, 3535 Market Street, Fifth Floor, Philadelphia, Pa. 19104, was at all times material to this complaint. Whereas, Defendant is sued individually and in her Official capacity, wherein it is alleged while cloaked "under color of law" she caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

47 Whereas, Defendant, Program Manager for Region III, for the Office of Child Support Enforcement, responsible for receiving and reviewing for approval, the submitted State plan of the Commonwealth of Pennsylvania, to determine whether the State plan (including plan amendments and administrative practices under the plan) meets or continues to meet the requirements for approval based on relevant Federal Statutes and Regulations, 45 CFR 301.13 (d).

48 The Regional Office is responsible to refer State Plan material on which the Regional staff has questions concerning the application of Federal policy to the Central Office of the Office of Child Support Enforcement.

49 Through continued approval, through grants of Federal financial participation, the Defendant reaffirms quarterly, her ratification of Plaintiffs' deprivation by the Commonwealth of Pennsylvania of Due Process and Equal Protection of the Law, thus prolonging the harm.

50 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

51 **Commonwealth of Pennsylvania**, Harrisburg, Pennsylvania, was at all times material to this complaint. Whereas, the Defendant is sued in cause for its willful participation in the deprivation of civil rights guaranteed by the Constitution of the United States wherein it is alleged that, "under color of law" the Defendant willfully classifies and treats Single Custodial Fathers and their custodial children (family) differently, than Single Custodial Mothers and their custodial children (family), establishing on presumption two classifications of families (custodial and non-custodial), though similarly situated if not the same (other than gender of custodial parent), with no apparent compelling state interest or interest in law, or any rational basis to

a legitimate state purpose, in dealing with custody and support of subsequent child conceived of both families, presuming custody to one family (single mother) over the “equal” other, (single father), thereby mandating the separation of siblings, and forcing Single father’s family to “apply” for custody rights and the expensive opportunity to prove fitness, while Single custodial mother’s family is “presumed” fit, and through the use of “vague” and “ignorant” Court rules and state statutes in determining child support, “presuming” Single custodial father’s custodial children (family) to be a “second intact family”, thereby depriving them the ability to financially provide for their “basic subsistence needs”, in violation of the “Equal Protection Clause” of the Fourteenth Amendment.

52 Without the financial ability to survive and maintain “family unity” (support is determined months before custody) Single custodial father’s family has not the financial resources to litigate custody of subsequent child, therefore, the Defendant has bestowed upon now “presumed” custodial mother of subsequent child, the authority to deny parental rights and to separate siblings, failing a Custody “order of Court”.

53 Because of this classification and the consequent use of vague and ignorant rules/laws, pertaining to custody and support of subsequent minor sibling, including but not limited to, presumption of custody, multiple family formula for support, and inconsistent formula used to determine “net income”, thereby denying Plaintiffs of Procedural and Substantive “Due Process of Law” under the Fourteenth Amendment to litigate custody of subsequent sibling and concerning Life, Liberty, Property, protection of Family Unity, reputation and Happiness.

54 Plaintiff’s minor custodial children are denied these privileges without a separate “Due Process” hearing or “effective” counsel as guaranteed by the Sixth Amendment, to protect their established “civil rights” (Ninth Amendment).

55 **Application of Gault,** 87 S. Ct. 1428 (1967) “Neither Fourteenth Amendment nor Bill of Rights is for adults alone.”

56 Defendant has written a “Bill of Attainder” against Plaintiff’s minor custodial children, leaving them without the “protection of law” (Article I Section 10 of the U.S. Constitution) and by definition has enslaved them to a “non-biological” presumed custodial mother of subsequent sibling, in violation of the Thirteenth Amendment.

57 Defendant has appointed free Title IV-D legal representation against Plaintiff and his minor custodial children, resulting in the further suppression of Plaintiffs’ rights to “Due Process”, but have denied Plaintiffs Title IV-D services and legal representation in their quest for support of minor custodial children “Equal Protection”.

58 Defendant has denied Plaintiff the right to enforce a “contract” entered into on May 20,1993, concerning the health and welfare of Plaintiff’s custodial children, binding Plaintiff and Defendant to said contract and the terms thereof, and “breaches” by refusing to enforce, through the use of laws/rules which circumvent and impairs, Defendant’s “obligation” to said contract, in violation of Article 1 Section 10 of the Constitution of the United States.

59 The motivational factor behind the cause of Defendant’s Civil and Constitutional rights violations against Plaintiffs, is the greed of the Defendant to obtain Federal Financial Assistance in the form of $105 million (child support enforcement program), $719 million in Welfare Block grants, and $18.6 million in Incentive Payments, whereas ten cents on the dollar is paid on 100% of the total dollar support amount of welfare cases (AFDC) and non AFDC cases are paid up to 115% of the AFDC cases.

60 “States are free to spend this money in any manner the State sees fit,” House Ways and Means Committee (1996 Green Book Section 9, Child Support Enforcement Program), which profits the Commonwealth $32 million annually.

61 Federal financing is based upon the performance of Defendant's Child Support Enforcement program (Title IV-D), which is based upon expenditures to amount of collections.

62 Defendant "embezzles" Interest earned from collections, paid by First Union National Bank, Middleton, Pa. 17057, converting this "Interest" against expenditures, thereby lowering expenditures, thus the Defendant falsely reports a better performance in its Title IV-D Child Support Enforcement Program (state plan), increasing amounts of Federal financial participation as outlined previously, in violation of Federal criminal codes 18 USC 641, 648 and 666.

63 EMBEZZLEMENT: Black's Law Dictionary 6th Ed. Pg. 522; "The fraudulent appropriations of property, by one lawfully entrusted with its possession. To willfully convert to one's own use another's money, lawfully acquired, by reason of some office or position of trust."

64 Support collections and Interest earned therefrom, are monies of minor children, as clearly stipulated by Congress in 42 USC 664 (a)(2)(A) and 42 USC 657 (a), who are under no obligation to the Defendant or their biological parents.

65 The only exception being support obligations assigned to the state under 45 CFR 232.11 and 471 (a)(1) of the Act. Pursuant to 42 USC 659 (a) and (b) and 42 USC 654b (a)(3.

66 Defendant is charged by Act of Congress with the safekeeping of this Interest money, but chooses to embezzle and convert this money to lower expenditures in order to receive higher Federal financial participation as previously stated.

67 Defendant has created a new and unconstitutional source of revenue (taxation without representation) using the innocent minor children of the Commonwealth as pawns to obtain, or retain Federal funding.

68 Defendant has represented to the Department of Health and Human Services via submissions in accordance with 45 CFR 301.15, through its "state plan" for support collection and establishment of paternity under Title IV-D of the Social Security Act as amended, that the Defendant complies with the Federal Regulations as promulgated by the H.H.S. and relevant Federal statutes, 45 CFR 301.13 and 45 CFR 302.13, and is eligible for grants of Federal financial participation for its Child Support Enforcement Program (Title IV-D state plan) as listed 42 USC 655 (a)(1),(2) and (3), 45 CFR 304.11, and 45 CFR 304.20 to 304.24, and Incentive payments (bonuses) pursuant to 42 USC 658 (a),(b) and (c), 45 CFR 302.55, 45 CFR 303.52 (a), and 45 CFR 304.12 (a) and (b).

69 Defendant's "state plan" does not comply with Federal regulations and relevant statutes and Defendant knowingly submits a "false document" to the Secretary of H.H.S. for the purpose of obtaining Federal financial participation for its Child support enforcement and Welfare programs, in violation of 18 USC 1002.

70 The Secretary of H.H.S. promulgates rules which encourages states to violate individual civil and constitutional rights, through Federal financial participation in the state enforcement programs, and Incentives (bonuses) based on performance of those programs.

71 The Secretary also promulgates rules "penalizing" states that do not meet certain collection goals, whereby performance based on collections to expenditures is not as good, by decreasing (percentage) Federal financial participation in a state's enforcement program and Welfare block grants, and decreasing the percentage of collections payable to the state as Incentives (bonuses), 45 CFR 304.12 (c)(3) and 45 CFR 305.100.

72 Defendant goes beyond the realm of compliance and violates civil and constitutional rights of its citizenry and minor children in order to profit from these programs.

73 According to the U.S. Census Bureau, the Commonwealth of Pennsylvania is the second oldest state with the average age of its citizenry at 35 years old, whereas a high percentage (as compared to other states) of Pennsylvanians are past their child bearing years.

74 Allegheny County is the second oldest county in the United States.

75 Based on population figures, the Commonwealth is in jeopardy to lose two congressional seats to other “growing” states.

76 The Commonwealth of Pennsylvania has lost a high percentage of its “living wage” jobs, whereas Allegheny County alone would need to increase by 38% or 140,000, its “living wage” jobs (paying at least $6.10/hour) in order to provide its working age adults adequate employment to meet their basic needs, (Basic Living Cost and Living Wage Estimates, University Center for Social and Urban Research, University of Pittsburgh, October 1997).

77 However, in contrast, the Defendant is #2 in the nation in child support collections (court orders) $958 million, behind only the state of California $1 billion, which has three times as many cases (2.5 million to 885 thousand).

78 The Defendant collects (amount of court order) $7.74 for every dollar it spends to administer enforcement plan.

79 The “national average” of all states is $4.00/dollar of administration costs. Only three states were above $6.00 and no other state was above $7.00.

80 “Collection” amounts used here are the amount of “Court Orders”, as reported to the Federal government, which is used to determine the performance of a state plan for federal financial participation and Incentive payments (bonuses) and to retain full federal funding of the state’s Welfare program, and not necessarily the amount received from the payers and “distributed” to the families of Pennsylvania.

81 In comparison, the state of Florida collected $3.13/dollar of administration costs, collecting $412 million on 1 million cases; New York- $4.03/dollar of costs, collecting $702 million on 1.3 million cases and Texas- $3.71/dollar of costs, collecting $538 million on 833 thousand cases.

82 Figures obtained from U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement- Twenty-first Annual Report to Congress for the period ending September 30, 1996.

83 It is clear the Defendant, through high, confiscatory and unconstitutional support determinations (orders of court), is violating the civil and constitutional rights of the small percentage of its citizens, who happen to be in their child-bearing years, working at a living wage job and involved in child support procedures.

84 The Defendant is using the children of this subject class of its citizens, against that class of its citizens, to guarantee Federal Child support enforcement and Welfare funding and to profit $32 million annually, (from which those same children do not directly benefit), but same profits can be used to build four new sports stadiums in the Commonwealth.

85 A clearer picture is the fact that the Commonwealth of Pennsylvania had $420 million more of “court ordered child support”

(collections) than the state of Texas, with only 52,000 more cases.

86 The average court order for support in the Commonwealth is $1,083/month, as compared to Texas at $646/month.

87 The Defendant is able to achieve these high “court orders of support” and financial goals and profits through the concise trail of conspiracy as outlined in this complaint.

88 Defendant circumvents its legislative responsibility by delegating authority to draft the statewide child support guidelines, pursuant to 45 CFR 302.17 and 45 CFR 302.56 in compliance with 42 USC 667 (a), to the Judicial branch which is less susceptible to public scrutiny, in the form of the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania, (see; Separation of Powers Doctrine).

89 This Judicial Committee circumvents public scrutiny through closed door meetings and deliberations.

90 The Committee forbids the common citizenry of Pennsylvania from testifying, observing and recording its meetings, thereby denying the citizens of Pennsylvania of expressive conduct and free speech, a right guaranteed by the First Amendment, and violating the Administrative Procedure Act as codified, 5 USC 552b mandating open meetings with public notice in Federal Programs.

91 Members of the Committee, including the former Chairman, named as a Defendant in this complaint, are Judges who not only write these “rules”, then sit on the Bench and rule on the rules they themselves wrote, but also hold power over attorneys who may have to argue against these rules to ensure “Due Process” for their client, through the “acceptance motion” to practice law in that Judges particular Court, which must be signed by that particular Judge.

92 Some of the Judges of this Committee are also Administrative Judges in their specific Courts, thereby in charge of their individual Courts, including but not limited to, Hearing Officers and other personnel, and procedures and “local rules of Court”.

93 Attorneys who may argue against the rationality or Constitutionality of a “rule” that particular Judge personally wrote, has no chance, even at the Hearing Officer level, and possibly no chance ever in that Court, for questioning the competency of a “rule” or lack thereof, while trying to ensure “Due Process” for his respective client, thereby violating that clause of the Fourteenth Amendment and Sixth Amendment rights to “effective counsel” and an “impartial judge”.

94 Thus ensuring for Defendant that guideline (rule) amount as “set in stone”, thereby eliminating the “rebuttable presumption as mandated in 45 CFR 302.56 (f), and ensuring higher Federal financial participation.

95 The Administrative Judge for the Family Division in Allegheny County also determines the distribution of the “access and visitation” grant (42 USC 669b) and allots this grant on the basis of “favoritism and politics” and not as Congress intended it to be distributed to the associations most capable of ensuring higher access and visitation to non-custodial parents (fathers) thereby increasing child support compliance.

96 The Committee covers its tracks by calling the “rules”, recommendations to the Supreme Court for changes to the rules, however, the Pennsylvania Supreme Court adopts these changes without review until a wealthy enough litigant can bring a case on appeal to the Pa. Supreme Court. See **Ball v.** Minnick, 648 A2D 1192 PA S. Ct. (1992).

97 Even if the Pa. Supreme Court finds the need for changes to the “rules” (guidelines) the Defendant has already, unconstitutionally made millions of dollars from these rules (guidelines) and violated the Constitutional rights of tens of thousands of citizens of the Commonwealth.

98 Fitzgerald v. Fitzgerald, No. 87- 1259 D.C. Ct. App. October 10, 1989; “District of Colombia Court of Appeals struck down child support guidelines adopted in 1987 in response to the Federal requirement. The Court held that the “Superior Court Committee” that drafted the guidelines, lacked the authority to do so.”

99 The common, working class, tax paying citizen, has no voice (through elections or verbal testimony) in the laws that effect the most important aspects of his life, his family, children, finances and the future of all three, for reasons that may have been totally out of his control, and can never obtain full “Due Process of Law” and “Equal Protection of the law” as guaranteed by the Fourteenth Amendment, due to the denial of “Freedom of Speech” (First Amendment), denial of “effective counsel” and “ impartial Judge” (Sixth Amendment), and violating ones rights in order to protect another (Ninth Amendment).

100 To further suppress and obstruct the rights of the common citizens of Pennsylvania, further ensuring Defendant of its Judicial revenues, is the Code of Judicial Conduct, canon 3 (A)(7)(d), forbidding litigants to record proceedings involving: custody, support or divorce, other than Court transcripts, even when both parties consent to such proceedings being recorded.

101 Plaintiffs have alleged that Court transcripts have been changed involving testimony that is relevant to this complaint and further deprive minor children of basic subsistence needs, in order to pay for transcripts, however recording devices are not permitted.

102 **Craig v. Harney, Sheriff,** 331 US 367 (1947) “There is no special prerequisite of the judiciary which enables it as distinguished from other institutions of democratic government, to suppress, edit, or censor events which transpire in proceedings before it.”

103 In further suppression, Defendant forbids litigants to consent and simultaneously review their own Court “social file” in violation of the “Freedom of Information Act, as codified 5 USC 552 (a), but permits private individuals, with no legal standing with either litigant, to review these files in violation of the “Privacy Act” Pub. L. 93-579.

104 To further suppress and obstruct Plaintiffs of Due Process, Defendant enters into cooperative and financial arrangements with appropriate local Courts and agencies, plus the $6.2 million to Allegheny County, for expenditures of its enforcement program, and passthrough incentives (bonuses in the amount of $2.3 million), encouraging the handing down and protection of, the highest possible support order, thereby suppressing and obstructing Plaintiffs’ Due Process right to rebut the guideline (rule) amount.

105 Allegheny County, “Family Division” obstructs and suppresses litigants from working pro-se, without legal representation (who would be under control of the Supreme Court), by making the Court the least accessible as possible, making Court procedures as difficult as possible, and Court personnel and administrators disseminate false and misleading information pertaining to the Court and the operation thereof.

106 The Court classifies these litigants differently than those represented, especially in the processes and procedures of Court, in violation of the “Equal Protection” clause of the Fourteenth Amendment.

107 As alleged in this complaint, the Allegheny County Family Division harasses and persecutes pro-se litigants (Plaintiffs) to discourage, suppress and obstruct their right to “Due Process” as guaranteed by the Fourteenth Amendment.

108 As alleged in this complaint, the Allegheny County “family division” encourages the filing of “false” protection from abuse petitions, which then can be used to ensure custody to the “lower” wage earner and ensuring the highest support order possible in a given case; And the “doctoring” of Court transcripts that may be detrimental to the Defendant.

109 Allegheny County Family Division, presumes custody to lower wage earner (mother) and mandates the higher wage earner (father) to pay high Court evaluation and legal fees, this after a high support order has been established, thereby forming, on a presumption, 2 classes (custodial and non-custodial) of litigants (families) and ensuring the highest possible support order.

110 By protecting one class and discriminating against another, thereby encouraging “divorce” and eliminating any available income to be used towards purchases, and by handing down support orders that are above that as protected by Federal law in the garnishment of wages, the Defendant detrimentally effects “interstate commerce”.

111 By and through its “state officials”, the Defendant violates the following Federal Regulations and relevant Statutes in implementing and administering its Title IV-D program (state plan) ensuring an unconstitutional source of revenue, including but not limited to; 42 USC 654 (23), 45 CFR 302.15 (a)(1), 45 CFR 302.30, 45 CFR 302.33 (a)(1), 45 303.2 (a)(1) and (2); 45 CFR 302.56 (h), 45 CFR 302.56 (f); 42 USC 666 (b)(1), 45 CFR 302.70 (a)(1), 45 CFR 303.100 (a)(3) and (5); 42 USC 666 (a)(1)(A) and (b)(4)(A), 45 CFR 303.100 (a)(6) and (h)(6), 45 CFR 303.101(c)(2); 42 USC 2000bb-1; 42 USC 2000d; 42 USC 1981, 1983, 1985, 1986 and 1988; 15 USC 1671 (a)(1) and (2); 15 USC 1673 (b) and (c); 5 USC 552 (a) (Freedom of Information Act); 5 USC 552b (Administrative Procedures Act); 18 USC 1002; 18 USC 641; 18 USC 648; 18 USC 666; 18 USC 241, 242, 371, 1503; and the Privacy Act.

112 By taking away Plaintiffs’ ability to provide for those of his own house, Defendant is denying Plaintiffs the First Amendment protected right to “freedom of religion”.

113 Plaintiffs have been receiving assistance under the Commonwealth’s Title IV-A program since March 1999 and has on numerous occasions requested child support enforcement services under Title IV-D, which are mandated under 45 CFR 302.32 (a), 45 CFR 303.2, 45 CFR 303.12, 45 CFR 232.11 and 471 (a)(17) of the Social Security Act, yet as of February 8, 2000 Defendant refuses to classify Plaintiffs’ case where they are the “obligee” trying to collect support for two minor children a Title IV-D case.

114 Plaintiff, though on Welfare, must represent himself all the way through the Exceptions hearing (Appeal) and after four months of non-payment, must literally hound the Court to start “contempt” proceedings.

115 However, Plaintiffs’ case where he is the “obligor” and must pay support to an unconstitutionally “presumed” custodial mother, is a Title IV-D case, although no Title IV-A assistance is involved, and contempt proceedings have started against Plaintiff automatically by the Court and without the petitioning of or knowledge of the “obligee” (because Plaintiff and obligee mother have worked between themselves to ensure minor child is cared for) causing tension between the two parties by the Court, and a non-requested Title IV-D attorney was appointed in that case to suppress and obstruct Plaintiffs in their quest for “ Due Process and Equal Protection” as guaranteed by the Fourteenth Amendment.

116 Through the persecution of Plaintiff and his minor custodial children (for standing up for the continued protection of their family's unity and Constitutional rights, Ninth Amendment, (mostly pro-se), Defendant is directly responsible for Plaintiff's " severe emotional distress" and disability which has prevented him from working and the loss of life, liberty, property, reputation, and threatening the unity of Plaintiffs' family, through the administration of Defendant's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

117 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

118 **Governor Tom Ridge,** 225 Main Capitol, Harrisburg, Pa. 17120, was at all times material to this complaint. Whereas, Defendant is sued individually and in his Official capacity, wherein it is alleged while cloaked "under color of law" he caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That he having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which he by reasonable diligence could have prevented.

119 Whereas, pursuant to Article IV Section 2 of the Pennsylvania Constitution of 1968, "the supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed."

120 Defendant was informed on numerous occasions of civil rights violations against Plaintiffs, and of the harm to innocent minor children, as alleged in this complaint, see Defendant Richard and Heller, but chose to condone and conspire with other Defendants, by passing his responsibility to those Defendants, and by approving of the Commonwealth's "state plan" as written and submitted by the Bureau of Child Support Enforcement (Title IV-D Agency) 45 CFR 301.12 and 45 CFR 301.13.

121 Defendant is directly responsible for the actions of the Pennsylvania Dept. of Public Welfare (Sherri Heller) and of the Bureau of Child Support Enforcement, "Title IV-D agency (Dan Richard).

122 Defendant is in the position and has a constitutional mandate to take action to protect the "civil rights" of Plaintiffs, but instead ignored his responsibilities to the citizenry of the Commonwealth and chose not to.

123 Defendant's proven "utmost" concern is the illegal and unconstitutional income for the Commonwealth of Pennsylvania, including but not limited to, the embezzlement of minor children's interest money, Incentive payments, ($18.5 million) and to protect the $823 million from the Federal government, without penalty, in the form of child support enforcement and Welfare " block grants", which bring a $32 million profit for the Commonwealth, using innocent children as "pawns" to obtain this Federal money, regardless of civil rights or Federal law violations.

124 Defendant's actions have caused Plaintiffs severe emotional distress, and the loss of life, liberty, property and reputation, threatening the unity of Plaintiffs' family, in the administration and implementation of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

125 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

126 **Daniel N. Richard,** Commonwealth of Pennsylvania, Bureau of Child Support Enforcement, Department of Public Welfare, 1303 North Seventh Street, 17102 Commerce Building, 12th Floor, Harrisburg, Pennsylvania 17105, was at all times material to this complaint. Defendant is sued individually and in his official capacity wherein it is alleged while cloaked "under

color of law" he caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That he having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which he by reasonable diligence could have prevented.

127 Whereas, Defendant as Director of the Bureau of Child Support Enforcement of Pennsylvania, a separate organization within the Pa. Department of Public Welfare, pursuant to 42 USC 654 (3) and 45 CFR 302.12 (a)(1)(I), (the IV-D agency) is responsible for drafting and submitting the Commonwealth of Pennsylvania's State Plan, in accordance with 45 CFR 301.15, describing the nature and scope of its program and giving assurance that it will be administered in conformity with the specific requirements stipulated in Title IV-D as codified in Title 42 USC 651 to 669, and conforming to Federal regulations as promulgated by the Secretary of the Department of Health and Human Services, containing all information necessary for the Office to determine whether the plan can be approved, as a basis for Federal financial participation in the State program, 45 CFR 301.10, 45 CFR 301.13, 45 CFR 303.13.

128 Pursuant to 45 CFR 302.12, the IV-D agency, specifically the Defendant, shall be responsible and accountable for the operation of the Commonwealth of Pennsylvania's Title IV-D program, and for securing compliance with the requirements of the State Plan by State agencies and officials.

129 Defendant is directly responsible for the alleged violations, as contained within this sworn affidavit and complaint, of Federal regulations, statutes and civil rights, and knowingly submits a false document (State Plan) to the Secretary for the purpose of obtaining Federal financing for the Commonwealth of Pennsylvania, in the form of $105 million to operate its child support enforcement program, $719 million in block grants and $18.5 million in Incentive payments, profiting the Commonwealth $32 million annually (violation of 18 USC 1002), depriving Plaintiffs of Due Process of Law and Equal Protection of the Law, causing Plaintiffs severe emotional distress and the loss of life, liberty, property and reputation.

130 Defendant, through conspiracy and intentional neglect, has, for all intents and purposes, imprisoned Plaintiffs in their own home (house arrest) and does further threaten the integrity of Plaintiffs' "family unity" and the "health and welfare" of innocent minor custodial children, forcing Plaintiffs to be dependants of the state.

131 Defendant is directly responsible for the non-compliance of the Allegheny County Family Court Administration of the Title IV-D program and other unconstitutional activities therein, including but not limited to, publicizing of Title IV-D services, 42 USC 654 (23) and 45 CFR 302.30, making applications to Title IV-D services readily available to AFDC and non-AFDC clients, 45 CFR 303.2 (a)(1) and (2), 45 CFR 302.15 (a)(1) and 45 CFR 302.33 (a)(I), unconstitutional formula to determine "net income", unconstitutional and discriminating practices in administering the "Offset Program", and violating the "Freedom of Information" and "Privacy Acts".

132 Defendant is directly responsible for the embezzlement of Interest monies, by the Commonwealth of Pennsylvania, of the Interest monies made from collections, (paid by First Union National Bank, Middleton, Pa. 17057), violating Federal Criminal Codes; 18 USC 641, 18 USC 648 and 18 USC 666.

133 By approving and submitting the Commonwealth's "state plan" to the Federal Government for Federal financial participation, Defendant is approving the unconstitutional Domestic Relations Procedural Rules Committee and the violations of Federal law and the constitution promulgated in the Committee's support guidelines, 45 CFR 302.17, including but not limited

to, the detrimental effect on “Interstate Commerce” (15 USC 1671 et al), promulgating rules that mandate the unlawful garnishment of wages (15 USC 1673 (b) and (c), 42 USC 666 (b)(1)), the unconstitutional classifications of “families” (Equal Protection 14th Amendment), Due process of law (14th Amendment), obligation of contracts (Art.1 Section 10 U.S. Constitution), and the freedom of speech (1st Amendment).

134 Defendant was asked by, and replied on behalf of, Governor Ridge concerning violations of Plaintiffs’ civil rights in the Title IV-D program by the Commonwealth of Pennsylvania.

135 Defendant condoned the civil rights violations and the use of a vague and unconstitutional multi-family formula, which supposedly doesn’t exist or recognize this case, according to Sophie Paul, Esq., formerly of the Domestic Relations Procedural Rules Committee, and Pennsylvania Superior Court Judge, Joan Orie Melvin.

136 It is clear the Defendant’s tactics are to discourage and obstruct Plaintiffs.

137 Defendant’s only concern is the determination of the highest possible support orders, regardless of constitutional rights and violations thereof, ensuring the highest Title IV-D incentive payment and interest payment, as well as Federal Welfare and Child Support Enforcement “Block Grants”, which all 4 can be significantly decreased depending on the performance of the Commonwealth’s Enforcement Program, which is based strictly on “Collections” ($ amount of Court Orders), 45 CFR 304.12 © (3) and 45 CFR 305.100, and not on the amount actually “Distributed” to the families.

138 Defendant, by and through the alleged “Torts” against Plaintiffs, has obstructed and denied Plaintiffs’ First Amendment right to “Free exercise of Religion” and the “Redress of Grievances”.

139 Therefore, Defendant was the direct or proximate cause of Plaintiffs’ injury and causes for relief.

140 **Sherri Z. Heller,** Pennsylvania Department of Public Welfare, P.O. Box 2675, Harrisburg, Pennsylvania 17105-2675, was at all times material to this complaint. Whereas, Defendant is sued individually and in her official capacity, wherein it is alleged while cloaked “under color of law” she caused the deprivation of Plaintiffs’ civil rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

141 Whereas, pursuant to 42 USC 654 (3) and 45 CFR 302.12 (a)(1)(I), the Pennsylvania Bureau of Child Support Enforcement (IV-D agency), directed by Defendant Dan Richard, is organized within the Pennsylvania Department of Public Welfare, whereas Defendant as Deputy Secretary of the Office of Income Maintenance of the Pennsylvania Department of Public Welfare, is the “immediate” Supervisor over the Bureau of Child Support Enforcement, specifically Director Dan Richard.

142 Defendant is in the position to prevent the wrongs committed against Plaintiffs, and was asked by the Governor to investigate and respond to Plaintiffs’ complaints of civil rights violations.

143 Defendant condoned the use of a vague and unconstitutional multi-family child support formula which supposedly doesn’t exist or recognize this case according to Sophie Paul, Esq., formerly of the Domestic Relation Procedural Rules Committee, and Superior Court Judge Joan Orie Melvin.

144 It is clear the Defendant's tactics are to obstruct and discourage Plaintiffs.

145 Defendants only concern is the determination of the highest possible support orders, regardless of constitutional rights and violations thereof, ensuring the highest Title IV-D incentive payment and interest payment, as well as Federal Welfare and Child Support Enforcement "Block Grants", which all 4 can be significantly decreased, depending on the performance of the Commonwealth's Enforcement program, which is based strictly on collections ($ amount of court orders), and not on the amount actually distributed to the families.

146 Defendant, by and through the alleged "Torts" against Plaintiffs, has obstructed and denied Plaintiffs' First Amendment right to "Free exercise of Religion" and the "Redress of Grievances".

147 Defendant's actions have caused Plaintiffs severe emotional distress, and the loss of life, liberty, property and reputation, threatening the unity of Plaintiffs' family, as implemented in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

148 Therefore, Defendant, was the direct or proximate cause of Plaintiffs' injury and causes for relief.

149 **Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania,** 429 Forbes Avenue, Suite 300, Pittsburgh, Pennsylvania 15219; was at all times material to this complaint. The Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania members (herein referred to as the Committee) are sued individually and in their Official "court appointed" Capacity wherein it is alleged, while cloaked "under color of law", they caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That they, having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having power to prevent or aid in preventing the same, neglected or refused to do that which they by reasonable diligence could have prevented.

150 Whereas, Defendant, the Committee and its individual members, is delegated the authority and responsibility, by the Commonwealth of Pennsylvania and the Supreme Court of Pennsylvania, pursuant to 45 CFR 302.17 and 45 CFR 302.56, in compliance with 42 USC 667 (a) for approval of Federal funding, of establishing child support guidelines to be used Statewide, through recommendations to the Supreme Court of Pennsylvania, which adopts said recommendations as Court rules.

151 Committee members named as Defendants, are responsible for Recommendation 48, as adopted and promulgated by the Supreme Court of Pennsylvania, becoming law effective April 1, 1999.

152 Defendant chose to ignore the Civil and Constitutional violations against Plaintiffs and retain the vague and unconstitutional rule in dealing with multiple families.

153 This "rule" contains no provision for dealing with the allocation of support for a subsequent child when dealing with two established "Single Custodial Families", classifying these families, especially the Custodial Children, differently, though similarly situated if not the same, other than the gender of the custodial parent, by protecting the standard of living of custodial children of one family (mother) and not the standard of living of custodial children of the other family (father), without any basis or purpose for that omission to an important government objective, denying Plaintiffs and others similarly situated of "Due Process of Law" and "Equal Protection of the Law" as mandated in 42 USC 666 (a)(1)(A), and (b)(4)(A), 45 CFR 303.100(a)(6)

and (h)(6), 45 CFR 303.101 (c)(2), which are relevant in approval of State Plan for Federal funding, 45 CFR 301.13, and the Fifth and Fourteenth Amendments of the United States Constitution.

154 Defendant was aware of the Civil Rights violations against Plaintiffs, and harm done to minor custodial children since December 1996 through phone conversations, e-mail, numerous letters, and in December 1997, during the Committee's comment period, through the submittal of Plaintiffs' "Children First Multi-Family Child Support Formula", but chose to ignore those violations.

155 42 USC 2000d prohibits the exclusion from, denial of benefits of, and discrimination in Federal financially assisted programs.

156 **Harlow v. Fitzgerald**, 457 US 800 (1982) "Referring both to the objective and subjective elements, we have held that qualified immunity would be defeated if an official(s) "knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the [plaintiff], or if he took the action with malicious intention to cause a deprivation of constitutional rights or injury."

157 Defendant ignored the economic data, such as contained in the study of; (Basic Living Cost and Living Wage Estimates for Pittsburgh and Allegheny County, University Center for Social and Urban Research, University of Pittsburgh, October 1997) and financial impact on children of Single Custodial Families, having custody of subsequent sibling presumed to the other family and being forced to pay child support, to that other family, according to guidelines that presume them to be a second " intact" family, and refusing to analyze case data as mandated by 45 CFR 302.56 (h).

158 Instead through acknowledged ignorance wrote a "Bill of Attainder" against Plaintiff's minor custodial children, and those similarly situated, leaving them without the protection of laws.

159 Defendants, knowingly and willingly, let stand a "vague" rule which forces Plaintiff's minor custodial children pay child support, by taking away their life, liberty, property and means of financial support of their basic subsistence needs, though legally obligated to no one, without a "Due Process" hearing, as mandated by the Fourteenth Amendment, or "effective" counsel before an "impartial" judge as mandated by the Sixth Amendment. **Sniadach v.** Household Finance, 395 US 337 (1969); **Lynch v.** Household Finance, 405 US 538 (1972); **Tucker v.** Maher, 419 US 997 (1974); **Fuentes v.** Shevin, 407 US 67 (1972).

160 The end result is "Government" sponsored "Child Abuse" and "Neglect", purposely bestowed upon Plaintiff's minor custodial children in violation of minor children's constitutional and civil rights. **Application of Gault,** 87 S.Ct. 1428 (1967): " Neither Fourteenth Amendment or Bill of Rights is for adults alone."

161 By definition (Black's Law 6th Ed.) Defendant has made Plaintiff's minor custodial children "slaves" to a non-biological and presumed custodial mother of subsequent sibling in violation of the Thirteenth Amendment.

162 Defendant's "Rules" which through Court orders, set the highest possible support order, regardless of Constitutional and Civil Rights violations, in order to receive for the Commonwealth the highest possible "Interest" Income from collections, (which in turn is embezzled for the use and benefit of the Commonwealth of Pennsylvania), the highest possible "Incentive" payments from the Federal Government of ten percent of every Court ordered support dollar, (before, and even if the support is " not" paid to the family), $18.5 million annually, and to continue to receive, without penalty, the annual $823 million from the

Federal Government in Support Enforcement and Welfare Block Grants, 45 CFR 304.12 ©(3) and 305.100, which is based upon a ratio of expenditures to collections 45 CFR 305.98, which profits the Commonwealth $32 million annually.

163 Therefore, Defendant's rules, under the guise of "Rules of Court", are Unconstitutional "Legislative Rules" and "Rules of Revenue" for the Commonwealth of Pennsylvania.

164 The Committee is an entity of the Judicial Branch, Supreme Court of Pennsylvania, and is absolutely forbidden from performing Legislative functions by the Pennsylvania Constitution of 1968, Article 2 Section 1, Article 3 Section 10 and Article 5 (Separation of Powers Doctrine).

165 Legislative Powers, Black's Law Dictionary, 6th Edition: "The lawmaking powers of a legislative body, whose functions include the power to make, alter, amend and repeal laws. It may not, however, delegate its law making powers nor is the " judicial" branch permitted to obtrude into its legislative powers. The enumerated powers of Congress are provided for in Article 1 of the U.S. Constitution."

166 Public Revenues: " Current income of nation, state, or local government from " whatever source derived" which is subject to appropriation for public uses." Spink v. Kemp, 365 Mo. 368, 283 S.W. 2d. 502 513… Public Market Co. v. City of Portland, 171 Or. 522, 130 P2d 624; City of Phoenix v. Sash, Door & Glass Co., 80 Ariz. 100, 293 P.2d 438.

167 All laws effecting the liberties of citizens of the United States must constitutionally have a basis and purpose, and only the elected Legislature can constitutionally do that.

168 U.S. v. Butler, 297 U.S. (1936) "The Judicial Branch has only one duty…. lay the article of the Constitution, which is involved, beside the Statute, which is challenged, and to decide whether the latter squares with the former…the only power it (the Court) has…is the power of judgement."

169 Little doubt remains that the Defendants intend to usurp the Power of the Pennsylvania Legislature.

170 October 31, 1997 state Attorney General D. Michael Fisher, Pennsylvania Senator Jeffrey Piccola, and State Representative Thomas Gannon, speaking of "separation of powers" and their wish to rein in a court (Pa. Supreme Court) they say has overstepped its authority, specifically the Court's rule-making authority, as outlined in Article V Section 10c of the Pennsylvania Constitution of 1968, stated; "The court has gone beyond rule-making and has encroached on the Legislature's ability to enact public policy." "The court and the court alone decides the limits of its power," Fisher said in written testimony. " Such unrestrained power is unheard of in a democracy. It certainly should not exist in the hands of the least-democratic branch of government, where, once elected, its members are virtually unaccountable to the will of the people."

171 Plaintiffs do not argue the importance of streamlining child support mechanisms, however the importance of this shared goal can not ignore Separation of Powers constraints.

172 The Separation of Powers Doctrine is based on the principle that when the government's power is concentrated in one of its branches, tyranny and corruption will result.

173 Three-Committee members, including the former Chairman, are Judges who write these "rules", then sit on the Bench and rule on the "rules" they themselves wrote.

174 Pennsylvania Code of Judicial Conduct, Canon Rule 5 (G), accompanying comment: “Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and “independence” of the judiciary.”

175 At that time, Hon. Max Baer was also Administrative Judge for Allegheny County Court of Common Pleas, Family Division, thereby having power over the administration of the Court and its procedures and local “rules” of Court, and also the “ statewide” rules, in which the Court (Allegheny County) must adhere to in order to be eligible for Title IV-D funding and “ passthrough” Incentives.

176 As “Administrative” Judge in Allegheny County, Hon. Judge Baer must sign an “Order of Court” admitting an attorney to practice in the Court of Common Pleas of Allegheny County, Family Division, upon taking the oath prescribed by law, which is an oath of allegiance to the Supreme Court of Pennsylvania, of which Hon. Judge Max Baer was the Chairman of such Supreme Court’s Committee writing laws to which any attorney licensed with the Bar, must argue against to ensure “Due Process” for Plaintiffs.

177 In Allegheny County if an attorney questions the Court, or the Court’s procedures, said attorney is reported to the disciplinary board of the state Supreme Court, for punitive action and can possibly be disbarred.

178 A clear and familiar example of the Court’s influence over attorneys, and elected officials as well, who also happen to be licensed attorneys in the Commonwealth, is the case of former Allegheny County Commissioner, Mike Dawida. Acting as an “ elected official” representing the “best interests” of his constituents, a licensed attorney, though not practicing law, in December 1997, voted to cut the Court’s funding by $1 million. Although this had “nothing” to do with him being an attorney, President Judge Hon. Dauer, reported Commissioner Dawida to the disciplinary review board, stating the Commissioner’s conduct was objectionable to the Court, which could have resulted in the Commissioner being disbarred from ever practicing law in the Commonwealth of Pennsylvania.

179 Thus, it is clear, this type of influence over the attorneys licensed in the Commonwealth of Pennsylvania, by Judges writing their own “rules” as part of a “Supreme Court” committee, denies Plaintiffs their Sixth Amendment right to an impartial hearing and “effective” counsel and “Due Process of Law” as guaranteed by the Fourteenth Amendment.

180 This “power” is forbidden by the United States and Pennsylvania Constitutions.

181 In the writing of these “rules”, Defendant circumvent “public scrutiny” through “closed door” meetings and deliberations.

182 In February 1997, during Defendant’s guideline update process, Plaintiffs requested, by phone and letter, to testify, observe and if possible, record activities of the Committee (Defendant), but were denied.

183 Plaintiffs’ intended purposes were to personally inform the Committee of the harm and Civil Rights violations against Plaintiffs and those similarly situated, to propose well documented possible solutions, and to disseminate any and all information to all Pennsylvania citizens to be used in discussions of Political Candidates for Public Office.

184 Chairman, Hon. Judge Max Baer, politically elected as Judge, was up for retention on the November 1999 ballot.

185 The Committee is a structure and form of Government.

186 Plaintiffs' right to express themselves and to know the manner in which government is operated or should be operated, and all such affairs of Government relating to the Political processes is a right and privilege of the Plaintiffs.

187 Expressive conduct and Free speech is protected by the First Amendment of the U.S. Constitution. **Texas v.** Johnson 491 US 397 (1989), **Spence v.** Washington 418 US 405 (1974).

188 Furthermore, the Defendant's ban on Plaintiffs' testimony or observation is subject to strict scrutiny, due to the obvious hostility toward non-custodial parents (mostly fathers), with no compelling state interest, other than unconstitutional revenues, thereby invalid. **Young v.** American Mini Theatres 427 US 50 (1976).

189 **Elrod v. Burns**, 427 US 347 (1976) "Loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Though First Amendment rights are not absolute, they may be curtailed only by interests of vital importance, the burden of proving which rests on the government."

190 The Committee's guidelines are mandatory for approval of Federal funding of the Commonwealth's Child Support Enforcement Program (Title IV-D) 42 USC 667 (a), 45 CFR 302.56, thereby bound by Federal Statutes, 45 CFR 302.13 (a), including but not limited to, the Administrative Procedure Act, as codified 5 USC 552b, mandating "open meetings" with " public notice".

191 Defendant has recommended and the Pennsylvania Supreme Court has promulgated, effective April 1, 1999, Rule 1910.16-7 (3).

192 This rule openly permits the garnishment of wages to exceed Fifty percent of available income, when an obligor supports another family.

193 It is clear this rule is in direct violation of relevant Federal Statutes and Regulations, of which the Commonwealth must abide by to be eligible for Federal financing of its child support enforcement "state plan" 45 CFR 301.13.

194 The intentions of the U.S. Congress is clear on this subject matter in the following Federal Statutes and Regulations, including but not limited to, 42 USC 666 (b)(1) "withholding from income of amounts payable as support, up to the maximum amount permitted under section 1673 (b) of title 15. If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under section 1673 (b)." Also see, 45 CFR 303.100 (a)(3) and (5) and (f)(I), 45 CFR 302.70 (a)(1).

195 15 USC 1673 (b): "the maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed-(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used) 50 per centum of such individual's disposable earnings for that week; and shall deemed to be 55 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve week period which ends with the beginning of such workweek."

196 15 USC 1673 (c) clearly states; "No Court of the United States, or any state, and no state (or officer or agency thereof) may make, execute, or enforce any order or process in violation of this section." "Execution or enforcement of garnishment order or process prohibited."

197 Therefore, it is also clear, the Defendant's actions have an adverse effect on Interstate Commerce in contrast with the clear intentions of Congress as codified in 15 USC 1671 (a) and (b).

198 Plaintiffs also allege Defendant's rule 1910.16-3 (c)(1) is biased and discriminates predominantly against fathers and is another clear example of Defendant's unconstitutional "rules of revenue" by ensuring the highest possible support order, even in "joint" custody cases.

199 By depriving Plaintiff the ability to provide for Custodial Children, Defendant has deprived Plaintiff the right to "Freedom of Religion" 42 USC 2000bb et al, and to redress the government of grievances, rights protected by the First Amendment.

200 Defendant's action is a direct cause of Plaintiffs' emotional distress and the loss of life, liberty, property and reputation, threatening the unity of Plaintiffs' family, as part of the administration of the Commonwealth of Pennsylvania's Title IV-D " state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

201 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

202 **County of Allegheny, Pennsylvania**, Pittsburgh, Pennsylvania, is a political subdivision of the Commonwealth of Pennsylvania and was at all times material to this Complaint. Defendant is sued in cause for its willful participation in the deprivation of Civil Rights guaranteed by the Constitution of the United States.

203 Whereas, the Defendant, through its Law Department, under the Federal Title IV-D Program, provides free attorneys to a specific class of individuals and not to others similarly situated in violation of the "Equal Protection" clause of the Fourteenth Amendment.

204 Title IV-D attorneys have been used to deprive and obstruct Plaintiffs of their Civil Rights, and to further deny Plaintiffs of their right to "Due Process of Law".

205 Defendant's motivational interest in doing so is the annual payments of $2.3 million in Federal incentives (bonuses) pursuant to 45 CFR 302.55 and 303.52, and the $6.2 million Federal reimbursement for expenditures of its Title IV-D program.

206 Figures obtained from Jackie Kirby, Supervisor, Fiscal/Reports Unit, Bureau of Child Support Enforcement.

207 By letter dated March 14, 1997, Allegheny County was made aware of Civil Rights violations against Plaintiffs', from State Senator Jack Wagner, within its political jurisdiction, having the power to prevent or aid in preventing the same, neglected or refused to do that which they by reasonable diligence could have prevented, conspiring with other Defendants and thereby held liable.

208 Defendant has obstructed Plaintiffs' First Amendment rights to the free exercise of Religion and the redress of grievances.

209 Defendant's action has caused severe emotional distress and the loss of life, liberty, property and reputation, threatening the unity of Plaintiffs' family, in Allegheny County's Title IV-D program, as part of the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

210 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

211 **Linda Liechty, Esq., Hon. Kathleen R. Mulligan and Patrick W. Quinn;** Allegheny County Court of Common Pleas, Family Division, 621 City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219-2404, were at all times material to this complaint. Defendants are sued individually and in their official capacities, wherein it is alleged while cloaked "under color of law" they caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That they having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which they by reasonable diligence could have prevented.

212 Whereas, pursuant to 45 CFR 302.10 (a) and (b), complying with 42 USC 654 (1), Defendants (together and/or individually) are responsible for the practices, procedures and the implementation of Allegheny County's Title IV-D (child support enforcement) program, and the requirements of the Commonwealth's "state plan", as submitted for Federal financial participation, subject to relevant Federal Statutes and Regulations.

213 The Commonwealth of Pennsylvania's "state plan", as submitted by Defendant Daniel Richard, (sixty-six percent financed by the Federal Government, 42 USC 655 (a)(1), (2) and (3), plus Incentive "bonuses" 42 USC 658 (a), (b), and (c),) provides for entering into cooperative arrangements with appropriate Courts and agencies, including the entering into of financial arrangements, with such Courts and agencies, 42 USC 654 (7).

214 Defendants fail to abide by the following relevant Federal statutes and Regulations, including but not limited to, 42 USC 654 (23), 45 CFR 302.15 (a)(1), 45 CFR 302.30 and 45 CFR 302.33 (a)(1) mandating Defendants publicize and make Title IV-D enforcement services applications readily available to AFDC clients, as well as non-AFDC clients, 45 CFR 303.12 (a)(1).

215 Defendants are mandated by Federal law, to make Title IV-D applications for services available immediately, if requested in person, or within five days after written or phone request, 45 CFR 303.2, to include information describing services and "rights".

216 Plaintiffs have, on numerous occasions, requested in person such application, and have been denied.

217 Plaintiffs have had three support cases with the Allegheny County, Family Division.

218 The first case, before Plaintiff was granted custody of his custodial children, Plaintiff was obligated to pay support for those children; this case was classified a Title IV-D case, Title IV-D No. 02-067131c.

219 After being granted custody on May 4, 1993 it took Plaintiff 10 months to have those support payments and the garnishment of his wages stopped, due to the ignorance and incompetence of Defendants and/or their subordinates.

220 The second case is not a Title IV-D case, where now non-custodial mother is obligated to pay support to Plaintiff, the Defendants and/or subordinates, have gone to great length over the years to show sympathy for non-custodial mother, at the expense of Plaintiff's custodial children.

221 The third, and most recent case, where Plaintiffs were presumed to be the non-custodial family, Plaintiffs are obligated to pay support and that case (also) is a Title IV-D case, No. 02-0726528c.

222 Plaintiff has, under oath in Court, questioned the difference in classifications of his cases.

223 The obligee in the latter case, and the Plaintiff, are similarly situated if not the same, yet the presumed “obligee” (mother) was given an application for Title IV-D services, without request, at the time she petitioned for child support.

224 This unconstitutional classification is a violation of the “Equal Protection Clause” of the Fourteenth Amendment. Obligee (mother) was also assigned, free of charge and without request, an attorney from the Allegheny County Law Department (Child Support Enforcement Legal Services Unit, i.e. Title IV-D) on April 21, 1998.

225 This assignment served to further suppress Plaintiffs’ civil rights and obstruct Plaintiffs from their quest of Due Process of Law, Fourteenth Amendment.

226 This assigned attorney represented obligee (mother) at an “exceptions” hearing to a modification of support ruling, in which neither party desired representation.

227 The duties of the Title IV-D attorney are in the “presentation” of complaints or any proceeding designed to obtain compliance with any order of the court, not to intimidate and obstruct justice.

228 Although believing Court order to be “unconstitutional”, Plaintiff was in “full compliance”.

229 On August 16, 1999 and August 24, 1999, Plaintiff wrote letters to Defendants Hon. Judge Mulligan and Linda Liechty inquiring about Title IV-D services and complaining about the administration, practices and procedures in the obstruction of “ pro se” litigants, and the rude treatment of fathers and their children (second class citizens) by Court personnel.

230 On August 19, 1999 and September 7, 1999, Plaintiff received response letters from Defendant Liechty.

231 These letters were vague, elusive and full of non-truths, and intentionally misleading Plaintiff concerning the administration and procedures of the Court, and the information necessary to process Court orders, intentionally to oppress, obstruct and deny Plaintiff “Due Process” (Fourteenth Amendment) “and” Title IV-D services, “Equal Protection”(Fourteenth Amendment).

232 Plaintiff was clear in making Defendant aware of his disability, which was ignored.

233 Plaintiff is, and has been, since March 1999, on Public Welfare, receiving aid under the Commonwealth’s Title IV-A program, to whom an assignment of Title IV-D services are mandatory under 45 CFR 232.11 and 471 (a)(17) of the Social Security Act, and still Plaintiffs have not received any information, application or Title IV-D services or child support from the owing parent, violating 45 CFR 302.32 (a) mandating Title IV-D services to collect support payments for recipients under the Commonwealth’s Title IV-A program.

234 In letter dated August 19,1999 Defendant Liechty stated that Title IV-D attorneys were not readily appointed and that Plaintiff must apply for one.

235 Defendant failed to send Plaintiff an application or tell Plaintiff where to get an application for Title IV-D representation or services for that matter.

236 In violation of the Fourteenth Amendment, (Equal Protection Clause) Defendants provide help and direction for Single

Custodial mothers (in the form of advocates and other enforcement services), but provide no help, even obstruct, Single Custodial Fathers from seeking the support their minor children deserve.

237 Defendants provide pamphlets, which by gender, classifies parents before litigation even starts, clearly exemplifying the obstacles to “Due Process” for fathers, committed by Defendants.

238 For “custodial” parents seeking support (describing their rights and responsibilities) the pamphlet is the color “pink” for females, and for “non-custodial” parents (describing their rights and responsibilities) the pamphlet is the color “blue” for males. This type of classification is a violation of the “Equal Protection Clause” of the Fourteenth Amendment.

239 According to the University of Pittsburgh study (October 1997) sited previously, twenty-five percent, or 7,000 of the Single Custodial Parents in Allegheny County are Fathers (male). Nationally, 2.1 million or 1/6th of all single parents are fathers.

240 An example of the “bias” attitudes of Defendants and/or their subordinates against Single Custodial Fathers was spoken on November 26, 1996 by Domestic Relations Officer Carol Brosky, obstructing Plaintiffs’ attempt to seek support for his minor children, when she stated to Plaintiff in front of non-custodial mother, from whom he was seeking child support and not a party to his other case, “Your mistake, Mr. Gordon, is you didn’t marry your new son’s mother.”

241 Although in front of Miss Brosky on several occasions with my new son’s mother, Miss Brosky never spoke those words to her or treated her in the same way.

242 This being but one of the clear examples of the bias classifications, based on gender, of the Defendants, a clear violation of the “Equal Protection Clause” of the Fourteenth Amendment.

243 Defendants and/or their subordinates, encourage the filing of “juiced up” or false Protection from Abuse petitions, mothers against fathers, to ensure custody to the mother.

244 In Plaintiffs’ case, while pregnant with parties subsequent child, mother wished to enter Plaintiffs’ home when they weren’t home to retrieve a few articles. Mother was at the Family Division on an unrelated matter, mentioned it to an employee and was told to file a P.F.A., make it sound good, “believable” and the Court would grant her a P.F.A., enabling the police the authority to enter Plaintiffs’ home, when Plaintiffs weren’t there.

245 Mother was told to claim Plaintiff verbally abused her and her custodial son.

246 This fabricated P.F.A. could then be used against Plaintiff after subsequent child was born, ensuring custody to the mother.

247 Defendants and/or their subordinates have “doctored” transcripts of legal proceedings.

248 On January 21,1999 Plaintiff attended Compliance Hearing against non-custodial mother, which he need not attend, for failing to pay child support, and specifically asked Hearing Officer Tierney if the Settlement Agreement signed between the two parties on May 4, 1993 and the Commonwealth of Pennsylvania, on May 20, 1993, was a legally binding contract between all 3 parties.

249 Transcript was changed to where Plaintiff asks if settlement agreement is a contract between the parties and their children, instead of with the Court/Commonwealth.

250 Defendants and/or their subordinates use a formula to determine “net income” of the “obligor” which is vague, confusing and inconsistent of the law and in its determinations, thereby unconstitutional under the “Due Process of Law” clause of the Fourteenth Amendment.

251 Over a six-month period, this formula had determined Plaintiff’s net income to increase by $300.00/month, when evidence proved the increase to be $27.71/month gross.

252 These determinations were done by the same Domestic Relations Officer, Carol Brosky.

253 On February 10, 1998, Plaintiff questioned the net income determination by D.R.O. Ms. Vallas, for it was $200.00/month “ higher” than the average of last six months. Ms. Vallas sarcastically and ignorantly replied that they have their own formula they use.

254 Defendants and/or their subordinates violate the Freedom of Information Act, as codified in 5 USC 552(a), in a Federally Financed Program, by not permitting clients, even when both parties request together, to look into their own Court “social file” but permit a “private” individual (Ray Sanchez a former Hearing Officer now private attorney) without a legal connection to either litigant, to view this file, violating the “Privacy Act” Pub. L. 93-579.

255 On May 4, 1999 at a modification of support hearing, Hearing Officer Susan Weber (subordinate of Defendants) after seeing evidence of Plaintiffs’ total net income, (due to disability caused by Defendants of this action) for the months of March and April, 1999 combined, for Plaintiff and his two minor custodial children to live on, of a mere $743.42, ignored the conclusive evidence; “Judges, (Hearing Officers under Pa. Code of Judicial Conduct, Canon 7), refusal to consider evidence denies Due Process rights to a meaningful hearing”… Armstong v. Mango 380 US 545 (1965) and Mathews v. Eldridge 424 US 319 (1976), and ordered Plaintiff responsible to pay $675.00 or 91% towards child support, leaving Plaintiffs’ family of three, 9% to live on.

256 Ms. Weber later dropped that amount to $500.00 or 67%, leaving Plaintiffs’ family a mere 33% to live on, in direct violation of 42 USC 666 (b) and 15 USC 1673 (b) and (c), without a “Due Process” hearing for Plaintiff’s minor custodial children (Fourteenth Amendment) with effective counsel (Sixth Amendment).

257 At the very same hearing, Ms. Weber denied a modification “increase” against non-compliant, non-custodial mother of Plaintiff’s minor custodial children and denied “contempt action” be taken against non-custodial mother by stating that Plaintiff had failed to petition for contempt to be heard.

258 Plaintiff had filed for “contempt” to be heard that day, as Plaintiff has consistently done for the past 5 years.

259 Ms. Weber informed non-custodial mother that she could legally “give up” parental rights in order to relinquish her obligation to financially support her children (as long as non-custodial mother doesn’t state that as a reason to terminate parental rights).

260 Ms. Weber even made a phone call, during the hearing, to help, non-compliant and non-custodial mother to initiate litigation to terminate parental rights.

261 Ms. Weber’s actions are a clear example of the biases condoned by Defendants, a clear violation of the “Equal Protection of

the Law" clause of the Fourteenth Amendment.

262 Plaintiff filed "exceptions" (appeal) to both orders, and both were to be heard on August 6, 1999 in front of Hon. Judge Baldwin.

263 On July 1, 1999 Defendants and/or their subordinates initiated action through their "Offset Division" with the United States Treasury to "intercept" Plaintiffs' income tax return, based on "illegal" arrears which were on appeal.

264 On July 20, 1999 Plaintiff reached a consent agreement discharging those illegal arrears.

265 Plaintiffs contacted Defendants and informed them arrears had been discharged, after receiving notice from Defendants of intercept, October 1999, but Defendants refused to discontinue its action against Plaintiffs through the US Treasury Department.

266 Defendant's punitive action against Plaintiffs before appeal was heard is a violation of Plaintiffs' "Due Process of Law" of the Fourteenth Amendment.

267 Out of "disgust and frustration" Plaintiff settled, out of court, and dropped his exception in the other case as well, on the day of the Exceptions hearing (without the benefits of Title IV-D representation, although representation was requested and Plaintiff was receiving assistance under Title IV-A).

268 Defendants violate the "Equal Protection Clause" of the Fourteenth Amendment by the unequal accessibility to the Court for "pro se" litigants, as it does "represented" litigants.

269 Defendants have "set aside" Fridays for scheduled hearings, but refuses to allow litigants the ability to have Court orders, (signed by the Judge) processed so as to become legally binding.

270 **Palmore v. Sidoti,** "Reality of private biases and possible injury they might inflict were impermissible considerations under the Equal Protection clause of the Fourteenth Amendment."

271 Defendants and/or their subordinates discriminate against fathers and cause adversity between parents (in the name of the " best interest of the children") in order to ensure a full docket, costly litigation fees, mother custody, less consent custody and support orders, ensuring higher support orders and higher passthrough incentives, 45 CFR 302.55 and 45 CFR 303.52 for bonuses for Defendants and their subordinates.

272 Defendants are the front line of the conspiracy to maintain, without penalty, the $823 million the Commonwealth receives in the form of Welfare and child support enforcement block grants, plus Incentives (bonuses) $18.6 million annually from the Federal government, of which the Commonwealth profits $32 million annually, of which Allegheny County and the Court receive $6.2 million for costs and $2.3 million in incentives, 45 CFR 302.55 and 45 CFR 303.52, based on high confiscatory support orders, depriving Plaintiffs of their guaranteed constitutional rights.

273 Defendants are directly responsible for Plaintiff's severe emotional distress and disability, and the loss of life, liberty, property, reputation and threatening the unity of Plaintiffs' family, through the persecution of Plaintiffs, for defending their family unity and constitutional rights, (Ninth Amendment) in the administration of Allegheny County's child support enforcement program, as part of the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as

submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

274 Therefore, Defendants are the direct or proximate cause of Plaintiffs' injury and causes for relief.

275 **Jeannie Bingman, esq.,** Court of Common Pleas of Allegheny County, Family Division, 616 City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219, was at all times material to this complaint. Defendant is sued individually and in her official capacity wherein it is alleged while cloaked "under color of law" she caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

276 Whereas, on October 29, 1996 and February 10, 1998, Defendant heard testimony concerning the plight and civil rights violations against Plaintiffs.

277 Defendant was in the position and had the authority "under color of law" to cease and correct these violations, instead conspired with other Defendants to obstruct Plaintiffs' rights, while seeking to destroy his "Custodial" family unity, to protect the Federal funding to the Commonwealth of Pennsylvania, on which the Commonwealth profits $32 million annually, of which Allegheny County and the Court receive $6.2 million for costs and $2.3 million in incentives, derived from high, confiscatory support orders, depriving Plaintiff of "Due Process of Law" and "Equal Protection of the Law" under the Fourteenth Amendment.

278 Plaintiffs' position was, and is: Subsequent child of the two single custodial families has a constitutional right and is entitled to "equally share" in the standard of living provided by both families, but neither the Court, nor presumed custodial mother, have the right to use subsequent child, whose custody was presumed to the mother, to take away the minimally adequate basic needs of single father's custodial children, without granting single father's custodial children a "Due Process" hearing (Fourteenth Amendment) in front of an impartial judge and legal representation, as guaranteed by the Sixth Amendment.

279 Procedural and Substantive "Due Process" mandates notice and opportunity to be heard before losing any liberty or property right "under color of law". **Sniadach v.** Household Finance, 395 US 337 (1969); **Lynch v.** Household Finance, 405 US 538 (1972); **Tucker v.** Maher, 419 US 997 (1974); **Fuentes v.** Shevin, 407 US 67 (1972).

280 On February 12, 1998 Defendant used a vague and unconstitutional formula to determine Plaintiffs' income at $2271/month.

281 According to the study (BASIC LIVING COST AND LIVING WAGE ESTIMATES, by the University Center for Social and Urban Research, University of Pittsburgh, October, 1997) the basic living costs for a single parent working full-time with two children, providing the family's "basic needs" for a "minimally" adequate standard of living, is $2237/month, which was $200.00/month more than "actual net income" as determined from actual paystubs.

282 Court records showed non-custodial mother of Plaintiff's custodial children as not paying child support for those children since January 1994, and of her (acknowledged and accepted), by both the Court and presumed custodial mother of subsequent child seeking support, inability to provide substantial or even adequate support, for those children, due to a tenth grade education and learning disability, mental illnesses, including but not limited to, manic depression with a bi-polar disposition.

283 Plaintiff's testimony and court records show the court's refusal to classify that case a Title IV-D case and the court's lackadaisical efforts to enforce support court order.

284 Defendant ignored all evidence as presented by Plaintiff and determined support obligation, to presumed custodial mother of subsequent son, by using a multi-family formula which had already been established to not recognize this case, thereby vague and unconstitutional, to be $467/month, which would leave Plaintiff unable to provide for the basic subsistence needs of his custodial children by $433/month.

285 However, Defendant stated that since presumed custodial mother was not seeking an increase (at that time), Defendant let stand the current $375/month order, thereby continuing to leave Plaintiff $341/month short of needed income to provide for the basic needs of Plaintiff's custodial children, which multiplied over the 39 months Plaintiffs were forced to pay this order, put Plaintiffs in a little over a 3 year span, $13, 300 short of providing for their "basic subsistence needs".

286 Plaintiff had submitted to the Court an itemized statement of wages and expenses, which were ignored by Defendant.

287 **Armstrong v. Mango** 380 US 545 (1965); **Mathews v. Eldridge** 424 US 319 (1976) "Judges refusal to consider evidence denies "Due Process" rights to meaningful hearing."

288 Defendant failed to rebut the guidelines, when support amount proved to be unfair. She protected Single Mother, while leaving Single Father and his Custodial Children unable to financially survive.

289 Defendant on both occasions based her decisions on the multi-family formula in the guidelines, which has proven to be vague in its use and not appropriate to this case, according to Sophie Paul and the research of Pennsylvania Superior Court Justice Joan Orie Melvin.

290 Having all Plaintiffs' financial documentation and by taking her decision "under advisement", Defendant had time to determine Plaintiffs had not the financial means to file an appeal with the representation of an attorney of the bar of Pennsylvania.

291 **Gross v. State of Illinois,** 312 F 2d 257 (1963) "State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights."

292 On February 10, 1998 Plaintiffs submitted to Defendant (Court) documents (letters) Plaintiffs had written about their case and the civil rights violations which had been mailed to Court and State Officials.

293 First document was dated October 7, 1997; Second document dated December 10, 1997 to the Domestic Relations Procedural Rules Committee containing Plaintiffs' proposed "Children First Multi-Family Child Support Formula"; and Third document dated February 10, 1998 containing Plaintiffs' "Declaration of Judicial Compliance" which clearly spelled out Plaintiffs' case and opposing the violations of their "Civil Rights".

294 Defendant is directly responsible, and hereby held liable, for the financial collapse of Plaintiffs' family, threatening the unity of Plaintiff and his custodial and non-custodial children (family) and the disability Plaintiff has suffered.

295 By taking away Plaintiff's ability to provide for those of his own house, Defendant has denied Plaintiffs their right to "

freedom of religion" as protected by the First Amendment and 42 USC 2000bb et al., Defendant's constitutional and civil rights violations, as part of the administration of the Allegheny County Title IV-D program, as part of the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

296 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

297 **John Mendicino,** Generations Program, Allegheny County Court of Common Pleas, Suite400, Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, was at all times material to this complaint. Defendant is sued individually and in his official capacity wherein it is alleged while cloaked "under color of law" he caused the deprivation of Plaintiffs' civil rights and privileges secured by the United States Constitution. That he having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which he by reasonable diligence could have prevented.

298 Whereas, Defendant's bias attitude of classifying Single Father's family differently than that of mother's, though similar if not the same, was immediately apparent when he asked Plaintiff what Religion Plaintiff was and that of mother.

299 Father is Presbyterian and Mother is Catholic.

300 Defendant told Plaintiff that subsequent son must be raised Catholic.

301 The parties had agreed before Court appointed Mediation on that issue, therefore, not an issue.

302 It is clear, Defendant's only concern was to see that mother's wishes and concerns would be addressed, regardless of Single Father's wishes and concerns or the negative impact Single Mother's wishes would have on Single Father's custodial children, in violation of the "Equal Protection Clause" of the Fourteenth Amendment.

303 Defendant did his best, and temporarily succeeded at bringing parties further apart and violating Plaintiffs' right to "Due Process of Law" as guaranteed by the Fourteenth Amendment.

304 Acting as an impartial mediator, the Defendant made the following statements in order to harass, intimidate and further obstruct Plaintiffs; "Judge Baer doesn't care about your daughters!" and "Judge Baer holds the key to the Iron Gate!".

305 Defendant's open "bias" remarks, attitude and intimidation tactics, greatly contributed to and prolonged the Civil Rights violations against Plaintiffs.

306 Defendant's intimidation tactics serves only to obstruct Plaintiff and ensure primary custody to mother thereby ensuring a higher court order of support in which higher Title IV-D incentive monies ($18.6 million) and interest monies would be paid to the Defendants of this complaint, and appropriate employees ($2.3 million to Allegheny County and its Courts).

307 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

308 **Andrea Dodasovich,** Generations Program, Allegheny County Court of Common Pleas, Suite 400, Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, was at all times material to this complaint. Defendant is sued individually and in her official capacity wherein it is alleged while cloaked "under color of law" she caused the deprivation of Plaintiffs' civil

rights and privileges secured by the United States Constitution. That she having knowledge of the wrongs conspired to be done as alluded to in 42 USC 1985, or wrongs about to be committed, and having the power to prevent or aid in preventing the same, neglected or refused to do that which she by reasonable diligence could have prevented.

309 Whereas, Defendant refused to recognize Single Custodial Father's Family as "equal" to Single Custodial Mother's Family.

310 Defendant ordered Single Father's Family to fully pay costs of Home and Psychological evaluations, ignoring the fact Single Father's children (although equal) would bare the brunt of these fees and Single Mother's children would pay nothing. A clear violation of the "Equal Protection of Law Clause" of the Fourteenth Amendment.

311 Her attitude was; Mother's family has presumed custody, if father's family wants any form of custody, they will pay for it, a clear violation of the "Due Process of Law" clause of the Fourteenth Amendment.

312 Defendant classified Single Mother and her custodial children differently than Single Custodial Father and his children though similarly situated, if not the same, a clear violation of the "Equal Protection of the Law" clause of the Fourteenth Amendment.

313 Defendant's tactics of intimidating Single Father to accept his Custodial family being classified as less than equal to Single Mother's Custodial family, or be forced to pay devastating Court Fees, violated and prolonged the violations against Plaintiffs' civil rights. A clear violation of "Due Process of Law" of the Fourteenth Amendment.

314 These tactics are an obstruction to Plaintiff, designed to ensure custody to mother and the highest court order of support ensuring high interest and title IV-D incentive payments to the Defendants and appropriate employees thereof.

315 Therefore, Defendant was the direct or proximate cause of Plaintiffs' injury and causes for relief.

II

CONSTITUTIONAL SOVEREIGNTY

316 The Plaintiffs are free and natural persons, citizens of the United States of America and inhabitants of the Commonwealth of Pennsylvania all within the Federal jurisdiction of the United States District Court, Western District of Pennsylvania, Pittsburgh Division, now here appearing and pray for relief before this Honorable Court herein, and invokes the sovereignty of the United States Constitution.

III

JURISDICTION AND VENUE

United States District Court/ United States Magistrate

317 Plaintiffs incorporate by reference paragraphs 1-316, as set forth in their entirety herein.

318 This Court has jurisdiction and Plaintiff brings this Federal action to enforce his Constitutionally secured liberties, arising

under 42 USC sections: 1983, 1985 (2)(3), 1986, 1988, 2000bb, 2000bb-(1),(2),(3),(4), 2000d, 2000d-(1),(2)(4a),(7), 42 USC 2000h-2. Plaintiffs brings this action arising under the Constitution of the United States, Article I Section 10; "No State shall pass any "Bill of Attainder" or "Law impairing the obligation of Contracts", Article I Sections 1 and 7 as referring to Legislative Powers and Bills for raising Revenue, and Article III as referred to in 42 USC 2000bb-1(c). Plaintiffs' action arises under the First, Fourth, Fifth, Sixth, Seventh, Ninth, Thirteenth and Fourteenth Amendments to the United States Constitution, the Restrictive and Declaratory clauses to the U. S. Constitution (commonly referred to as the "Bill of Rights"), the statute of1776 (commonly referred to as the Declaration of Independence), and its declaratory Liberty, Property and the Pursuit of Happiness clauses of said Declaration under God; 28 USC sections 144, 372 (c), 1331 (a), 1343 (a)(1),(2),(3), and (4), 1391 (b),(c), and (e) and 28 USC 2284; Title 5 USC 552 and 552b; 15 USC 1671, 1673, 1675.

319 This cause also arises under the Federal Criminal Code, 18 USC sections 241,242, 371, 641, 648, 666, 1001, 1002, 1503, 3231, as said codes are Declaratory of the Common Law.

320 This cause of action arises under the Constitution of the United States, Article VI: "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all "treaties" made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding."

321 The United States is a member of the United Nations and a signee to the Universal Declaration of Human Rights, and a " state party" to the enforcement treaty pursuant to said Declaration of Human Rights, in the form of the "Covenant on Civil and Political Rights", having the force of law for the Countries which ratified it. This treaty #14668 was signed by the United States on October 5, 1977 and ratified by Congress on June 6, 1992.

322 Alleged violations, as contained in this complaint, of the Covenant on Civil and Political Rights are clear under; Article 1 (2) "In no case may people be deprived of own means of subsistence." Article 2 (1), (2) & (3), Article 3, Article 8 (1), Article 14 (1) as pertaining to the right of an "independent and impartial" court, Article 17 as pertaining to unlawful interference with family and attacks on honor and reputation, Article 18, Article 19 pertaining to the right of "freedom of expression" including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, Article 23 (1) & (4) as pertaining to the protection of the "family" and of children after a divorce, Article 24 (1) pertaining to measures of protection as are required by children's status as a minor, on the part of their family, society and the state, Article 25 ©, and Article 26 as pertaining to the "equal protection" to all persons against discrimination on the ground of sex of the individual.

323 28 USC 1331: "The district courts shall have original jurisdiction of all civil actions arising under the constitution, laws, or treaties of the United States."

324 Four of the Defendants are officers of the United States, hence this court's venue is conferred by 28 USC 1391 (e).

325 28 USC 1343 (a): "The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person. **(1)** "To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42; **(2)** "To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent; **(3)** "To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of

the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; **(4)** "To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights."

326 The United States District Court has jurisdiction under the Civil Rights Acts of 1866 and 1871 which was never repealed and clearly places the redress by citizens for deprivation of rights in Federal Jurisdiction. Original "arising under" jurisdiction, pursuant to Art. III, Sec. 2, Cl. 1, was vested in the Federal Courts by Sec. 11 of the Act of Feb. 13, 1801, 2 Stat. 92, but was repealed only a year later by Sec. 1 of the Act of Mar. 8, 1802, C. 8, 2 Stat. 132. It was not until 1875 that Congress granted the Federal Courts "Original Cognizance, concurrent with the courts of the several states, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and arising under the Constitution or laws of the United States…" Act of Mar. 3, 1875, Sec. 1, 18 Stat. 470. The jurisdiction amount has since been raised from $500 to $2,000 by the Act of Mar. 3, 1887, Sec. 1, 24 Stat. 552; to $3,000 by the Act of Mar. 3, 1911, ch. 231, 36 Stat. 1168; and to $10,000 by the Act of July 25, 1058, 72 Stat. 415. The provision is now codified as 28 USC 1331 (1982). The only exception was Sec. 25 of the Judiciary Act of 1789, 1 Stat. 85, providing for Supreme Court review whenever a claim of Federal Right is denied by a State Court. Thus, as originally enacted, Sec. 1 of the 1871 Act provided that the proceedings authorized by the Act are "to be prosecuted in the several District or Circuit Courts of the United States…." 17 Stat. 13. This aspect of Sec. 1 is now codified as 28 USC 1343 (3). Plaintiffs are seeking damages far in excess of $10,000.

327 Allegations made by Plaintiff against Defendants of United States Code and Constitution, involved the Defendant's actions in implementing and administering the Commonwealth of Pennsylvania's Title IV-D Child Support Enforcement Program.

328 The Department of Public Welfare and the Child Support Enforcement Programs (Title IV-D of the Social Security Act) are Federal financial assistance Programs.

329 Federal financial participation in the Commonwealth of Pennsylvania's Child Support Enforcement Program as outlined in 42 USC 655 (a)(1), (2), (3), and 45 CFR 304.11, 45 CFR 304.20 to 304.24: Sixty Six percent of all operating costs (expenditures), Ninety percent of expenditures to comply with new Federal statutes, including but not limited to, new statewide computer system, and ninety percent of lab costs.

330 42 USC 658 (a), (b), (c), and 45 CFR 302.55, 45 CFR 303.52 (a), and 45 CFR 304.12 (a), (b), detailing "Incentive" payments from the Federal Government to the Commonwealth of Pennsylvania, based on performance of, and dollar amount of collections, in its child support enforcement program, (Title IV-D).

331 45 CFR 304.12 ©(3) and 45 CFR 305.100, detailing the percentage "decrease" of Welfare and Child Support Enforcement block grants, from the Federal Government to the Commonwealth of Pennsylvania, based upon the performance of the Commonwealth of Pennsylvania's Title IV-D program (state plan).

332 42 USC 2000d: "Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs."

333 42 USC 2000d-7 (a) (1):"A state shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal Court for a violation of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance." (2) "In a suit

against a State for violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a state.

334 42 USC 2000bb-1: “Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability.”

335 Plaintiffs request that the United States Attorney General intervene in these proceedings on behalf of Plaintiffs and the 2.1 million Single Custodial fathers and their children, citizens of the United States of America, under its jurisdiction as outlined in 42 USC 2000h-2 which states:

336 “Whenever an action has commenced in any court of the United States seeking relief from the “ denial of equal protection of the laws” under the fourteenth amendment to the Constitution” on account of race, color, religion, **sex** or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance.”

337 The Fourteenth Amendment to the U.S. Constitution guards against the state depriving any person of life, liberty or property, without Due Process of Law; nor deny to any person the Equal Protection of the Laws. **Section 5**: “The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.” Such as the previous provisions of the Civil Rights Act of 1964.

338 Fitzpatrick v. Bitzer, 427 US 445 (1976) “Through the Fourteenth Amendment, Federal power extended to intrude upon the province of the Eleventh Amendment and therefore Section 5 of the Fourteenth Amendment allowed Congress to abrogate the state’s immunity from suit guaranteed by that amendment.” Also see; Seminole Tribe of Florida v. Florida, 517 US 44 (1996) and College Savings Bank v. Florida Prepaid Post-Secondary Education Expense Board, 119 S. Ct. 2219 (1999).

339 Plaintiff alleges that the actions of the Defendants violated Federal Criminal Codes and therefore are offenses against the laws of the United States.

340 **18 USC 3231** clearly establishes the jurisdiction of this Court: “ The District Court of the United States shall have original jurisdiction, exclusive of the Courts of the States, of all offenses against the laws of the United States”.

341 **18 USC 641** , “Whoever embezzles or knowingly converts to his use or the use of another any money or any property being made under contract for the United States or any Department or Agency thereof; or whoever receives or retains the same with the intent to convert to his use or gain, knowing it to have been embezzled or converted.”

342 **18 USC 1002**, “Whoever knowingly and with the intent to defraud the United States, or any Agency thereof, possesses any false document for the purpose of enabling another to obtain from the United States, or from any Agency, any sum of money.”

343 Before this Court entertains a motion to dismiss, it should consider Ankerbrandt v. Richards, 112 S. Ct (1992).

344 Ankenbrandt v. Richards, 112 S Ct. (1992) “The District Court erred in abstaining from exercising jurisdiction under the Younger doctrine. Although this Court has extended Younger abstention to the civil context, it has never applied the notions of comity so critical to Younger where, as here, no proceeding was pending in state tribunals. Similarly, while it is not

inconceivable that, in certain circumstances, the abstention principles developed in Buford v. Sun Oil Co. 319 U.S. 315, might be relevant in a case involving elements of the domestic relationship even when the parties do not seek divorce, alimony, or child custody, such abstention is inappropriate here, where the status of the domestic relationship has been determined as a matter of state law and, in any event, has no bearing on the underlying torts alleged."

345 The Younger, Burford and Rooker-Feldman Federal Abstention Doctrines do not apply to this case.

346 There is no action in State Courts, this is neither a Domestic Relations case nor an appeal from State Court decision.

347 This Court has jurisdiction to adjudicate all Plaintiffs' claims through "ancillary" jurisdiction, and any possible Younger claim by Defendants, would be so intertwined with Plaintiffs' numerous Federal claims, so as to allow this court "pendant" jurisdiction under 28 USC 1367.

348 The outcome of this suit will not effect Plaintiffs' Domestic Relations cases. Plaintiff has full custody of his 9 and 11-year-old daughters, and 50/50 joint custody of his subsequent son, with a fair and equitable support order entered into by consent agreement, along with custody agreement, on July 22, 1999. Plaintiff sues for discrimination in the Commonwealth of Pennsylvania's Title IV-D services and the violation of constitutionally guaranteed civil rights, Federal statutes, and procedural abuse of process in the Commonwealth of Pennsylvania's Title IV-D Enforcement Program (State Plan) causing severe emotional and mental distress, loss of life, liberty and happiness, threatening the unity of Plaintiffs' family by using minor children as pawns in order to acquire illegal and unconstitutional revenue for the Commonwealth.

349 It is clear, by the evidence, Plaintiffs have exhausted all Administrative Remedies accorded a Single parent layman and Plaintiff has demanded and pursued all other legal remedies as the Defendants and the Plaintiffs' finances would permit.

350 Plaintiffs' request Court to consider the Doctrine of Ex parte Young 209 US 123 (1908) to allow suit against named individuals (State Officials "under color of law") to go forward, notwithstanding the Eleventh Amendment's jurisdictional bar, where the suit seeks prospective injunctive relief in order to end a continuing federal-law violation.

351 Persons acting in their individual or official capacity are not entitled to Absolute Judicial or Qualified immunity, whose actions violate clearly established statutory or constitutional rights of which reasonable person would have known.

352 Individuals sued in their official capacity of the Commonwealth of Pennsylvania, are entities representing the Commonwealth and its policies, thereby a party on contract between the Commonwealth and Plaintiff, waiving sovereign, absolute judicial, and qualified immunities.

353 Members of the Committee who may be honored with the title of Judge, are not sued as a Judge, but as an individual and a member of a Committee acting as an officer of the State and in their individual capacity, in compliance with the Federal Title IV-D program, Child Support Enforcement, 42 USC 651 to 669, and 45 CFR 300 et al, specifically 45 CFR 302.56.

354 Hon. Kathleen R. Mulligan is not sued as a Judge, but as an individual and in her official capacity, specifically as a Court Administrator.

355 **Dixon v. State,** 224 Ind 327, 67 NE2d 138 (1946) "Prohibitions of Fourteenth Amendment apply to acts of administrative agencies of state."

356 **Lovell v. Griffen,** 303 US 444 (1938) "Municipal ordinances adopted under state authority constitute state action and are within prohibition of the Fourteenth Amendment."

357 No Judge so named as a Defendant in this action, has or had jurisdiction over Plaintiffs regarding the "subject matter" of this case.

358 **Laverne v. Corning**, 316 F. Supp. 629 "As long as a defendant who abridges a plaintiff's constitutional rights acts pursuant to a statute of local law which empowers him to commit the wrongful act, an action under the Federal Civil Rights statute is established." 42 USC 1981 et seq.

359 **Westberry v. Fisher**, 309 F. Supp. 95 (District Court of Maine- 1970) "Governmental immunity is not a defense under 42 USC 1983 making liable every person who under color of state law deprives another person of his civil rights. See: Crawford-El v. Britton, 96 US 827

360 **Ex Parte Virginia**, 100 US 339 (1879) "State officials acting in their official capacities, even if in abuse of their lawful authority, generally are held to act under color of law. This is because such officials are "clothed with the authority" of state law, which gives them power to perpetrate the very wrongs that Congress intended section 1983 to prevent."

361 Gomez v. Toledo, 446 US 635 (1980) "By the plain terms of section 1983, two-and only two-allegations are required in order to state a cause of action under that statute. First, the Plaintiff must allege that some person has deprived him of a Federal right. Second, he must allege that the person who has deprived him of that right, acted under color of state or territorial law."

362 Mondell v. New York City Dept. Of Social Services, supra, 436 U.S. 658 "Local governments can be sued directly under USC 1983 for monetary, declaratory, or injunctive relief where…the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers."

363 Pembaur v. Cincinnati, 475 U.S. 469 (1986), "It is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under USC 1983."

364 As evidenced by letter dated April 29, 1998 from Kimberly A. Shaffer, the Attorney General's Office of Pennsylvania and comments on October 31, 1997 by Attorney General Fisher, the Attorney General of Pennsylvania is not willing or politically able to investigate such a clandestine revenue source for the Commonwealth of Pennsylvania, and its political subdivisions, where an investigation also could lead to the complete overhaul of the Domestic Relations System, already a political hotbed fueled by prominent, outspoken political organizations. Only in the Federal District Court can Constitutional jurisdiction and Justice be served.

365 Plaintiffs have suffered severe damages and are entitled to redress and remuneration, in the form of compensatory, punitive and exemplary awards for damages, for crimes against the common good and public offenses which fall under the "common law theory of tort liability" for violations of 42 USC 1983. Ku Klux Klan Act of 1871, Act of Apr. 20, 1871, Sec. 1, 17, Stat. 13, Rev. Stat. Sec. 1979.

366 This case involves vital questions of civil rights important to many Americans of similar circumstances throughout this nation, thus abstention should not be considered. Plaintiffs challenge the actions of four officers of the United States, state

action, conduct of state officials, and others where such action and conduct "under color of law" impinges on fundamental civil liberties and constitutional rights. Plaintiff urges the Court to take particular concern since the State system has been unwilling to protect those rights itself. Plaintiff avers that the Commonwealth of Pennsylvania, Allegheny County and other named individuals have breached there obligation and duty to protect the civil liberties of United States Citizens; the Federal Criminal Codes and the United States Constitution. By such breaches of its duties the Commonwealth of Pennsylvania, through its appointed and elected officials has waived its Eleventh Amendment immunity for both the State and its appointed or elected officials.

367 This Court should not hold this litigant's pleadings to the same high standards of perfection and technicality as attorneys. If faced with a motion to dismiss, the Court should give Plaintiffs' pleadings especially lenient treatment so that before the Court dismisses the complaint of these In Propria Persona Plaintiff, they can be given an opportunity to offer evidence or further particularize his claim. The Federal Courts have related that In Propria Persona Civil Rights pleadings are to be liberally construed. Haines v. Kemer, 404 US 519,92 S.Ct. 594 (1972); Jenkins v. McKeithen, 395 US 411, 421 (1969), Blood v. Margis, 322 F. 2d 1086 (1971); Powell v. Lennon 914 F2d 1459 (11th Cir. 1990); Balistreri v. Pacifica Police Dept. 901 F2d 696 (9th Cir. 1990).

368 "If court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant's unfamiliarity with pleading requirements." Smith v. US District Court, 956 F2d 295 (D.C. 1992); Freeman v. Dept. of Corrections, 949 F2d 360 (10th Cir. 1991).

369 The District Courts have continually avoided the issue of discrimination against fathers and their children by the states and their courts, by dismissing cases on the grounds of failure to state "a cause of action for equitable, injunctive, declaratory relief and restitution or to make a concise path of conspiracy to deny civil rights.

370 U.S. v. Lovett, 66 S. Ct. 1073 (1946), "Nothing is more common than for a free people, in times of heat and violence, to gratify momentary passions, by letting into government principles and precedents, which afterwards prove fatal to themselves. Of this kind is the doctrine of disqualification, disfranchisement, and banishment by Acts of Legislature. The dangerous consequences of the power manifest if the legislature can disfranchise any number of citizens at pleasure by general descriptions. "The Constitution outlaws this entire category of punitive measures."

-IV-

STATEMENT OF THE CASE

371 Plaintiffs incorporate by reference paragraphs 1-370, as set forth in their entirety herein.

372 This is an action for declaratory and injunctive relief and relief for monetary damages brought by Plaintiff, who is a Single custodial parent, currently disabled, and unable to afford an attorney and comes before this Court In Propria Persona. The subject of this suit is the deprivation of Plaintiffs' constitutionally guaranteed rights and the "for profit" motivated conspiracy to violate and ignore those rights. Plaintiffs have suffered extreme mental anguish, financial destruction of their family unit, property rights, and the ability to earn wages, in their pursuit of redress for a lengthy pattern of deprivations of their Constitutional rights, liberties and character assassination against them.

373 At all times, Plaintiff was legally, morally and in his religious beliefs, responsible for the Health, Welfare and Best Interests of all 3 of his minor children, whereby, any and all actions Plaintiff took, legally and otherwise, held these responsibilities as the utmost and top priority.

374 The Commonwealth of Pennsylvania by presuming custody of subsequent (new) child to Single Custodial Mother and her family and not to Single Custodial Father and his family, or presuming "Joint Equal Custody" to both families (caused by " vague" state statutes and rules) unconstitutionally classifies Single Mother's family as the Full-time (custodial) family, and Single Father's family as the "presumed" absent or non-custodial family.

375 Classifying Single Mother differently than Single Father, although similarly situated, if not the same, based on "**gender**" violates the **"Equal Protection Clause"** of the Fourteenth Amendment.

376 Frontiero v. Richardson, 93 S. Ct. 1746; 411 U.S. 677 (1973): "Classifications based upon SEX, like classifications based upon RACE, ALIENAGE or NATIONAL ORIGIN are inherently suspect and must be subjected to strict judicial scrutiny…any statutory scheme which draws a sharp line between the sexes, solely for the purpose of achieving administrative convenience, necessarily commands dissimilar treatment for men and women who are "**SIMILARILY SITUATED**" and therefore involves the very kind of arbitrary legislative choice forbidden by the "constitution".

377 Craig v. Boren, 429 US 190 (1976) "Classifications by gender must serve important governmental objectives and must be substantially related to achievement of those objectives."

378 When dealing with issues concerning Gender, Children and the fundamental rights of Family Unity, U.S. Supreme Court requires states classification to pass its "strict scrutiny" test, requiring states to show more than a rational basis to a legitimate purpose.

379 Custodial children of Single Mother are presumed to be full time siblings, where subsequent sibling is presumed to live with and be apart of their family, where children of Single Father are presumed to be absent siblings, at most visitors, depending on the wishes of Single Mother and/or the financial ability of Single Father to litigate for custody of subsequent ½ sibling, at his custodial children's expense.

380 Single Father and his children must pursue and pay costly litigation and Court fees, including but not limited to Court Evaluations, to prove they are a fit family, while Court's "presume" Single Mother's family is.

381 Classifying custodial children of Single Mother (although "equal ½ siblings) differently than children living with Single Father, based on the gender of the custodial parent, although similarly situated, if not the same, violates the **"Equal Protection Clause"** of the 14th Amendment.

382 Johnson v. Robinson, 415 US 361 (1974) "A classification must be reasonable, not arbitrary, and must rest upon some ground of differences, having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

383 For the Commonwealth of Pennsylvania it is more "convenient" and "profitable" to presume custody to Single Mother's family and "force" Single Father's family to "pay" exorbitant litigation and Court fees to prove their family's fitness.

384 Stanley v. Illinois, 92 S. Ct. 1208 (1972) “The State insists on “presuming” rather than proving Father’s unfitness solely because it is more convenient to presume than to prove. Under the “Due Process Clause” that advantage is insufficient to justify refusing a father a hearing when the issue at stake is the dismemberment of his family.” “Claim in the state courts and here is that failure to afford father a hearing on his parental qualifications while extending it to other parents denies father of “Equal Protection” of the laws. Parents are constitutionally entitled to a hearing on their fitness. Denying such a hearing to Stanely and those like him while granting it to other parents is inescapably contrary to the “Equal Protection Clause”.

385 Dunn v. Blumstein, 92 S. Ct. 995 (1972), “In pursuing substantial state interest, state can not choose means which unnecessarily burden or restrict constitutionally protected activity.”

386 Reed v. Reed, 404 US 71 (1971), “Clearly the objective of reducing the workload on probate courts by eliminating one class of contests is not without some legitimacy…{But to} give a mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment.”

387 As with Single Mothers, in their homes, Single Fathers must fulfill the “role” of mother and father and provide for the immediate and nurturing needs of their minor children.

388 The responsibilities of Single Mothers and Single Fathers are exactly the same.

389 In this instant case, Single Father is presumed fit and responsible to continue care of his “custodial” children”.

390 Documents dated April 12, 1993 (Home Evaluation report to the Court, by Bruce Burman) and dated June 3, 1993 (Psychological Evaluation report to the Court, by William Fischer) support this presumption.

391 Documents dated May 29, 1997 (Crafton Children’s Corner, preschool for Custodial Children), two dated June 4, 1997 (Prime Medical Group, Pediatrician for Custodial Children) as well as (Montour Elementary Schools “Ingram”, Elementary school for Custodial Children) and dated June 9, 1997 (Intercare Behavioral Services, Therapist for Custodial Child) reaffirm this presumption as do documents dated April 27, 1999 and September 9, 1999 (Montour School District, Comprehensive Evaluation Report for Special Education, submitted by Angela Bloomquist, school psychologist).

392 Single Father is “not” presumed “fit” to equally share in the “care” and “nurturing” of subsequent child without the benefits of a “costly” hearing, but Single Mother, because of her “**gender”** is.

393 Classifying subsequent sibling, living with presumed custodial mother, differently than ½ siblings living with presumed non-custodial father, based upon the gender of the parents, though similarly situated if not the same, clearly violates the **“Equal Protection Clause”** of the Fourteenth Amendment.

394 Caban v. Mohammed, 99 S. Ct. 1760 (1979) “The Supreme Court specifically rejects the notion that **gender** based classifications in custody matters could be justified “by any universal difference between maternal and paternal relations at every phase of a child’s development.”

395 Single Father is a divorced custodial father, as much a “mother” figure to his custodial children as any single custodial mother, who without question had shown the utmost responsibility to his children, unlike the classification the state would

consider Single father as an unwed father, presumably not as responsible and hasn't assumed the burden of responsibly raising children.

396 Quilloin v. Walcott, 98 S. Ct. 549 (1978): "Once married father who is separate or divorced from a mother and is no longer living with his child, could not constitutionally be treated differently from a currently married father living with his child."

397 Stanton v. Stanton, 95 S. Ct. 1373 (1975), "The "old notion" that generally it is the man's primary responsibility to provide a home and its essentials, can **no longer justify a statute that discriminates on the basis of gender.**"

398 Defendants presumed custody of subsequent child away from Single father's family without the benefits of a hearing to determine fitness, and place an unconstitutional financial burden on Single father's family, in the form of Court ordered evaluations, depriving them of vital financial resources, which are needed for the health, welfare and subsistence needs of Single father's custodial children, in order to litigate to prove fitness for even the enjoyment of visitation. Plaintiffs have not the financial resources to absorb such costs, and Defendants provide no viable assistance, thereby on presumption, are denied any and all custody rights of subsequent child (sibling), in disregard of Plaintiff's "parental rights" or the "separation of siblings".

399 A clear violation of the "Due Process of Law" and "Equal Protection of the Law" clauses under the Fourteenth Amendment, and the First and Ninth Amendments.

400 M.L.B. v. S.L.J., 117 S. Ct. 555 (1996) "Generally, fee requirements are examined only for rationality, and State's need for revenue to offset costs, in mine run of cases, satisfies rationality requirement; exceptions to that rule are fees that impede basic right to participate in political processes as voters and candidates, right of access to judicial processes in cases criminal or " quasi-criminal" in nature, and cases involving termination of parental rights."

401 Wiskoski v. Wiskoski, 629 A2d 996 (1993) "Absent compelling reasons to the contrary, siblings should be raised together whenever possible, in order to provide continuity and stability necessary for young child's development."

402 Grancas v. Schultz, 683 A2d 1207 (1996) "Commonwealth policy to raise siblings together whenever possible, applies equally to ½ siblings."

403 IN RE U.P.,648 P2d 1364; Utah (1982) "The right of a parent not to be deprived of parental rights without a showing of fitness, abandonment or substantial neglect is so fundamental and basic as to rank among the rights contained in the Ninth Amendment."

404 Stanely v. Illinois, 92 S. Ct. 1208 (1972) "Illinois was barred, as a matter of both "Due Process" and "Equal Protection", from taking custody of children of an unwed father, absent a hearing and a particularized finding that father was unfit parent."

405 Santosky v. Kramer, 102 S. Ct. 1388 (1982) "The interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the Fourteenth Amendment." Also see: Bell v. City of Milwakee, 746 F 2d 1205; US Ct. App. 7th Cir. WI (1984); Quilloin v. Walcott ET VIR, 98 S. Ct. 549 (1978).

406 Reynolds v. Baby Fold, Inc., 369 NE 2d 858; III 2d 419, appeal dismissed 98 S. Ct. 1598, US 963, II, (1977) "Parent's right to custody of child is a right encompassed within protection of the First Amendment, which may not be interfered with under guise of protecting public interest by legislative action which is arbitrary or without reasonable relation to some purpose within

competency of state to effect."

407 MLB v. SLJ, 117 S. Ct. 555 (1996) "These associational rights are ranked as of basic importance in our society, rights sheltered by the Fourteenth Amendment (Due Process and Equal Protection clauses) against state's unwarranted, usurpation, disregard or disrespect."

408 In the Interest of Cooper, 621 P 2d 437; 5 Kansas App Div 2d 584 (1980) "Parent's interest in custody of children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection."

409 Stanely v. Illinois, 92 S. Ct. 1208 (1972) "The establishment of prompt efficacious procedures to achieve legitimate state ends is a proper state interest worthy of cognizance in constitutional adjudication. But the Constitution recognizes higher values than speed and efficiency. Indeed, one might fairly say the Bill of Rights in general, and the Due Process Clause in particular, that they were designed to protect the fragile values of a vulnerable citizenry from the overbearing concern for efficiency and efficacy that may characterize praiseworthy government officials no less, and perhaps more, than mediocre ones."

410 Doe v. Irwin, 441 F Supp 1247; U.S. D.C. of Michigan, (1985) "The rights of parents to the care, custody and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and such right is a fundamental right protected by this amendment (First) and Amendments 5, 9, and 14."

411 Weinberger v. Wiesenfeld, 95 S. Ct. 1225 (1975) "A Father, no less than a mother, has a constitutionally protected right to the companionship, care, custody and management of the children he has sired and raised, which undeniably warrants deference and, absent a powerful countervailing interest, protection."

412 There are no rules of Civil Procedure pertaining to 2 Single Custodial families having a child. Custody has been presumed to Single mother's family, Single Father and his custodial children must pay support. The courts must follow guidelines, which do not consider the full expenses and living costs of Single father's children, whose health and welfare the Defendants are contractually obligated to enforce Plaintiff to maintain.

413 Boyd v. U.S., 96 S. Ct. 984 (1976), "It is the **"duty"** of the Courts to be watchful for Constitutional Rights of the citizen, against any stealthy encroachments thereon."

414 Single mother has the presumed power over Single Father's custodial children, who are not her "biological children", to take away their home, family life, stability and anything close to a "standard of living" they once enjoyed, through a unconstitutional Court Order of Support obtained through Defendants, which classifies Single mother, her custodial child and subsequent presumed custodial child, differently than Single father and his custodial children, on the basis of gender of the custodial parent, especially the custodial children of both families, though similarly situated if not the same, with no basis or purpose to any state objective.

415 Plaintiffs have not the financial resources left to provide for their basic subsistence needs, let alone appeal support decision, with representation by an attorney licensed with the bar, and the Defendants "make available" to Plaintiffs, no viable assistance to obtain that goal.

416 Boddie v. Connecticut, 401 US 371 (1971), “Court has recognized a narrow category of civil cases in which the “State” must provide access to its judicial process without regard to a party’s ability to pay Court fees.”

417 Orr v. Orr, 440 US 268 (1979) “Legislative classifications which distributes benefits and burdens on the basis of gender carry the inherent risk of reinforcing stereotypes about the proper place of women and their need for special protection; thus, even statutes purportedly designed to compensate for and ameliorate the effects of past discrimination against women must be carefully tailored. The state cannot be permitted to classify on the basis of sex.”

418 Single father’s custodial children are not given the right to a “Due Process hearing”, by an impartial court, with counsel for their defense, before their way of life, liberty and property are taken from them, violating the “Due Process of Law” and “Equal Protection of the Laws” clauses of the Fourteenth Amendment, and the Sixth and Ninth Amendments.

419 Application of Gault, 87 S. Ct. 1428 (1967), “Neither Fourteenth Amendment nor Bill of Rights is for adults alone.”

420 Duncan v. Louisiana, 88 S. Ct. 1444 (1968), “Chapter 39 of the Magna Carta (1215) was a guarantee that the government would take neither life, liberty, nor property without trial in accord with the law of the land that already existed at the time the alleged offense was committed. This means that the “Due Process” clause gives all Americans, whoever they are and wherever they happen to be, the right to be tried by “Independent and Unprejudiced Courts” using established procedures and applying valid preexisting laws. There is not one word of legal history that justifies making the term “Due Process of Law” mean a guarantee of a trial free from laws and conduct which the Courts deem at the time to be arbitrary, unreasonable, unfair, or contrary to civilized standards. The Due Process of Law Standard for a trial is one in accordance with the “Bill of Rights” and laws passed pursuant to constitutional power, guaranteeing to all alike a trial under general law of the land.”

421 Boddie v. Connecticut, 401 US 371 (1971) “Within limits of practicability, a state must afford to all individuals a meaningful opportunity to be heard…Whenever one is assailed in his person or his property, there he may defend….The right to meaningful opportunity to be heard within limits of practicality must be protected against denial by particular laws that operate to jeopardize it for particular individuals.”

422 Minor children are presumed slaves to a presumed custodial mother of their subsequent ½ sibling, to whom they have no biological or financial obligation.

423 Slavery: Black’s Law Dictionary Sixth Ed., “The condition of a slave, that civil relation in which one man (woman) has absolute power over the life, fortune, and liberty of another.”

424 Thirteenth Amendment: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

425 The Courts in the Commonwealth of Pennsylvania have support hearing before custody is determined, now Single Father and children must shift gears and fight for survival, no longer capable of financially litigating custody of new ½ sibling, they must fight to financially maintain “their” family unity.

426 Stanely v. Illinois, 92 S.Ct 1208 (1972) “The integrity of the “Family Unit” has found protection in the “Due Process” of law clause of the Fourteenth Amendment, Meyer v. Nebraska, 262 US 390 (1923), the Equal Protection Clause of the Fourteenth Amendment, Skinner v. Oklahoma, 316 US 535 (1942), and the Ninth Amendment, Griswold v. Connecticut 381 US 479

(1965)."

427 Smith v. Organization of Foster Families, 431 U.S. 816 (1977) "We have little doubt that the Due Process Clause would be offended if a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was "**thought"** to be in the children's best interest."

428 Expenses of Single Father's minor custodial children were contractually accepted, **"implied or Quasi-contract"** by Single Mother, by her actions of accepting Single Father and his custodial children as they were, with their expenses and standard of living during the 7 months of relationship prior to both parties consenting to the conception of their son.

429 Quasi-Contract: "An obligation which law creates in absence of agreement; it is invoked by Courts when there is an unjust enrichment. Sometimes referred to as implied-in law contracts, voluntary agreements inferred from the parties conduct; an obligation in law where in fact the parties made no promise, and it is not based on apparent intention of parties." Fink v. Goodson-Todman Enterprises, Limited, 9 C.A.3d 996, 88 Cal. Rptr. 679, 690.

430 Implied Contract: "A Contract, implied in fact, is actual contract which arises where parties agree upon obligations to be incurred, but their intention, instead of being expressed in words, is inferred from their acts in light of surrounding circumstances." Martin v. Little, Brown and Co. PA Super 450 A.2d 984

431 The Defendants laugh at and refuse to recognize 2 Single Custodial Parents entering into an "implied or Quasi-contract" (herein referred to as Quasi-contract) for the protection of their custodial children should the relationship not work out, whereby both parents acknowledged and accepted each other and their economic standard of living, including expenses of custodial children and that both families are "equal" and neither had a right to assume "full custody" of the new child over the other, (separating siblings), nor use child as an "economic weapon" against the other single parent and their custodial children.

432 Single Father is obligated to accept Single Mother and expenses of her custodial child, as evidenced through determination of subsequent Support Orders for new child.

433 A clear violation of the "**Equal Protection Clause"** of the Fourteenth Amendment.

434 The Courts relieve Single Custodial Mother of responsibility to her present Custodial children of any adverse effects of her possibly getting pregnant and the responsibility of investigating potential mates in such manner as to their current financial obligations to children, and their ability to support any subsequent children, without unconstitutionally destroying custodial children's lives.

435 The Defendants choose to put Single Mother's responsibility, previously stated, onto Single Father's innocent Minor custodial children, who have no choice and no legal responsibility to either their father or any Non-biological mother.

436 State's power to legislate, adjudicate and administer all aspects of family law, is subject to scrutiny by the judiciary within reach of due process and/or equal protection clauses of the Fourteenth Amendment….Fourteenth Amendment applied to states through specific rights contained in the first eight amendments of the Constitution which declares fundamental personal rights… Fourteenth Amendment encompasses and applied to states those pre-existing fundamental rights recognized by the Ninth Amendment.

437 The Ninth Amendment acknowledged the prior existence of fundamental rights which it: “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

438 Simmons v. United States, 390 U.S. 389 (1968), “We find it intolerable that one constitutional right should have to be surrendered in order to assert another.”

439 Single Custodial Father and Defendants are “contractually” obligated to the economic welfare of his custodial children.

440 Boddie v. Connecticut, 401 US 371 (1971), “The State being party to marriage contract, thereby the state must allow divorce proceedings regardless of ability to pay Court costs.”

441 Contract: As defined in Restatement, Second, Contracts 3: “A Contract is a promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty.”

442 Beggs v. Beggs, 57 D&C 487, 47 Lack. Jur 245 PA Com. Pl (1947) “The Commonwealth is a “third party” to every divorce suit.” Also see: Di Cello v. Di Cello, 45 Sch. L.R. 103 Pa. Com. Pl. (1949); Kahn v. Kahn, 47 Lack. Jur. 101 Pa. Com. Pl. (1946).

443 The Commonwealth of Pennsylvania is a signed party on a “contract” with Plaintiffs. The Commonwealth has utilized its laws and Court Rules, with the same effect as laws, to impair its obligation to said contract.

444 Hans v. Louisiana, 134 U.S. 1 (1890) at 20-21, “Where property or rights are enjoyed under a grant or “contract” made by a State, they cannot wantonly be invaded, any law impairing the obligation of contracts under which such property or rights are held is void and powerless to effect their enjoyment.”

445 Contract agreed to and signed by Plaintiff (Single Custodial Father), mother of Plaintiff’s custodial children, and the Court/ Commonwealth of Pennsylvania, was signed by the Courts/ Commonwealth of Pennsylvania on May 20, 1993 by Judge Kaplan, and the two private individual parties on May 4, 1993.

446 Etter v. Etter, 31 Leh. LJ. 173 PA. Com. PL. (1965) “The Commonwealth is a “third party” to every divorce action, thereby imposing a duty upon the master and examiner in divorce and upon parties’ counsel to protect the state’s interests.” Also see: Michell v. Michell, 3 A2d 955 PA Super (1939).

447 “The parties shall consent to the provisions of this Agreement being **“incorporated but not merged”** in the Final Decree in Divorce which will be obtained in the Court of Common Pleas of Allegheny County, Pennsylvania, Family Division. The parties agree and intend that said incorporation is for the purpose of “enforcement only”, and not to vest in the Court issuing the Decree in Divorce any power to “modify” the terms of this Agreement.”

448 Sorace v. Sorace, 655 A2d 125 (1995), “Marriage settlement agreement which specifically states that it is to be **incorporated into but not merged** with divorce decree remains a contract subject to laws applicable to contracts.” Also see: Bullock v. Bullock, 639 A2d 826 (1994); McGough v. McGough, 522 A 2d 638 (1987).

449 By refusing to acknowledge the existence of this contract, Breaching by refusing to enforce, when considering “ability to pay” support to presumed Single Custodial Mother of subsequent child, the Defendants take away Plaintiffs’ ability to perform

his obligations of Contract to which the Commonwealth is contractually obligated to enforce Plaintiff to uphold.

450 Being a signed party, whose only obligation under the contract is for enforcement, the Defendants are obligated to recognize and enforce said contract, along with recognizing the fact that Single mother, before conceiving subsequent child, acknowledged and accepted said contract (quasi or implied in law) and the enforcement thereof.

451 Neither private party wished this contract to be modified. The Defendants modified this contract through lack of recognition and enforcement.

452 Sorace v. Sorace, 655 A2d 125 (1995), "Court may not unilaterally modify terms of marriage settlement agreement which specifically states that it is to be incorporated into but not merged with divorce decree."

453 Brower v. Brower, 604 A2d 726 (1992), "Terms of property settlement agreement whether incorporated or merged into dissolution decree cannot be modified by court unless property agreement itself specifically provides for judicial modification."

454 McMahon v. McMahon, 612 A2d 1360 (1992) "The Court must construe the "contract" only as written and may not modify the plain meaning under the guise of interpretation."

151 By ignoring their obligation to this contract, the Defendants are circumventing the consequences of their bargain onto Plaintiffs' minor children, for whom the contract was signed to "**Protect"**.

455 Zvonik v. Zvinok, 435 A2d. 1236 (1981) "The law regulating contractual agreements, which are clear and precise on their face, counsels against rewriting a contract no matter how well intended the author or laudable the goal. One is bound by the terms of an agreement whether good, bad or indifferent."

456 "Absent some legally recognized infringement of the law of contract by one party, the law will not reform a written contract so as to make a contract for the parties themselves and certainly ""ever to rescue a party who did not reasonably foresee the consequences of his bargain.…it has been said that parties sui juris bind themselves by their lawful contracts, and courts cannot alter them because they work a hardship. The mere fact that parties have made an improvident bargain will not lead a court to make unnatural implications or artificial interpretations."

457 The Courts refusal to honor contract it is a party to, and refusing to uphold any "implied consensual" or "quasi-contract" results in a Single Custodial Mother stealing the Standard of living from Single Father's children and giving it to her previous custodial child who has no biological relationship to Single Father or his custodial children and they no legal responsibility to him.

458 The Domestic Relations Procedural Rules Committee has never considered a situation where a Single Custodial Father is in a situation to be obligated to pay support. Neither the past nor current guidelines recognize a situation such as this, especially when father has custody of children from his first family.

459 The Court's are forced to use Rules that treat Single Father's family as a second intact family, with a new spouse, not as a " first" "Single" Custodial Family. Being a Single Custodial Family, they do not have the financial resources to appeal.

460 Even if financial Resources were available, those resources are the property of Single Father's custodial children, and

should not be taken away but protected, as are the children of Single mother.

461 A clear violation of the **"Equal Protection Clause"** of the Fourteenth Amendment.

462 The multiple family formula the Court uses is punitive and confiscatory to Plaintiff and his custodial children, whereas it fails to consider and account for full "expenses" of custodial children.

463 The Court continually refuses to consider the evidence of custodial children's expenses and the punitive damage it is doing to custodial children by following guideline as though it were set in stone.

464 Armstrong v. Mango, 85 S. Ct. 1187 (1965), "Refusal to consider evidence denies **"Due Process"** rights to a meaningful hearing." Also see: Mathews v. Eldridge, 98 S.Ct. 892 (1976).

465 In the case where Single Father is to receive support for his Custodial children, from a Single Custodial Mother, the Courts have shown undo compassion in considering expenses of Defendant, a Single Mother, for her custodial child, even though this child "is" her 2nd family, one which she chose to have with "full knowledge" of her obligations to her first family.

466 However, where Single Father is obligated to pay support, to a Single Mother who knew of Single Father's obligations to Custodial Children of his first family, and his reduced ability to provide support, the Courts continually determine that Single Father's first and Custodial Family are irrelevant to proceedings.

467 A clear violation of the **"Equal Protection Clause"** of the Fourteenth Amendment.

468 Yick Wo v. Hopkins, 118 U.S. 356, (1886), "Laws and Court procedures that are "fair on their faces" but administered " with an evil eye or a heavy hand" are discriminatory and violates the "Equal Protection Clause" of the Fourteenth Amendment."

469 In a letter dated February 28, 1997 from Pennsylvania Superior Court Justice, Joan Orie Melvin, responding to Plaintiffs' letter dated February 20, 1997, Judge Melvin personally researched Plaintiffs' complaints of the inequities in the support guidelines. In her response letter, Judge Melvin explains to Plaintiff, the Domestic Relations Committee considered implementing a multi-family formula but decided it was too difficult to apply and inequitable in result. The new rule described " only what should not be done in multiple family situations".

470 Judge Melvin advises Plaintiff that being in the "Civil" Division she cannot directly help Plaintiff with "Family" issues, but Plaintiff is on the right track to changing the law.

471 On August 26, 1997 in Motions Court, Hon. Judge Kaplan stated: "I personally spoke to Sophia Paul (Defendant and former Esq. For the Domestic Relations Procedural Rules Committee) and you are correct, Mr. Gordon, there are no Rules of Civil Procedure pertaining to this case, however, because of your letters and testimony the Committee is working on a Formula that would encompass your case. You should be proud that you have helped not only your family but also others similarly situated."

472 On October 29, 1996 and February 12, 1998, the Court clearly states the use of the "Multi-Family Formula.

473 The Rules and Statutes are "**VAGUE**" and unclear in this area, therefore a violation of Single Custodial Father and his custodial children's "**DUE PROCESS"**.

474 The Rules and Statutes in this area are so vague that even a Pennsylvania Superior Court Justice didn't understand it, how can Plaintiff, a common bus driver understand them?

475 Commonwealth v. Sterling, "A law is "void" on its face, and violative of due process if it is so vague that persons of " common intelligence" must necessarily guess at its meaning and differ as to its application." Re: Commonwealth v. Barud 681 A2d 162 (1996)

476 Grayned v. City of Rockford, 92 S. Ct. 2294 (1972) "Vague laws offend several important values; first, vague laws may trap the innocent by not providing fair warning; second, vague laws impermissibly delegates basic policy matters to policemen, judges and juries for resolution on an ad hoc and subjective basis, with attendant dangers of arbitrary and discriminatory application; and third, where a vague statute abuts on sensitive areas of basic FIRST AMENDMENT freedoms, it operates to inhibit the exercise of those freedoms."

477 The child support Single Father "and" his children have been forced to pay for over 3 years is unconstitutional for the guidelines and the determination of net income of obligors are vague, arbitrary and capricious, the breach of contract by defendants concerning the health and welfare of Single father's custodial children, has caused tremendous damage; emotionally, financially, in liberty and happiness, in reputation and property rights, destroying Family Unity and Parental rights, without **" Due Process of Law"** or adequate **"Counsel for Plaintiffs Defense".**

478 United States v. Guest, 383 U.S. 745, "Section 5 of the Fourteenth Amendment enables Congress to punish interferences with constitutional rights "whether or not state officers or others acting under color of state law are implicated. There the statute involved (18 USC 241) proscribed all conspiracies to impair any right "secured" by the constitution. In order for a conspiracy to qualify it need not involve any state action. By the same reasoning the "custom…of any state" as used in Sec. 1983 need not involve official state development, maintenance, or participation. The reach of Sec. 1983 is Constitutional rights, including those under the Fourteenth Amendment; and Congress rightfully was concerned with their full protection, whoever might be the instigator or offender."

479 By using these vague rules and guidelines, "minor" custodial children of Single Father are obligated to pay support by the Courts forcefully taking their financial resources for their subsistence needs and their standard of living, of which new ½ sibling has right to equally share in, but the Court, the Commonwealth, nor Single mother has a right to use ½ sibling to take those resources away.

480 Application of Gault, 87 S. Ct. 1428 (1967), "Neither Fourteenth Amendment nor Bill of Rights is for adults alone."

481 The Committee agreed with Plaintiffs in releasing their recommendations for changes to the guidelines, effective April 1, 1999, in their proposed recommendation 48:

482 "A parent should be required to meet his or her obligations to the first family (Single Father's Custodial children) before incurring new ones, and that children from a prior marriage or relationship should be "protected" (the same as Single Mother's custodial children are) from the adverse financial consequences of the parent's decision to have more children. Essentially, the second family takes obligor as they find him or her- with an existing obligation. While it is true that the children of this second family had no choice in the matter, the majority of Committee members felt that these children are entitled only to the "standard of living" established by their two parents, and not the standard of living that exists with the first family." The Committee goes

on to say that: “later spouses (mates) had an opportunity to investigate a potential spouse (mate) to reveal “Custodial” children”.

483 “This approach, is used by the majority of Income Shares States.”

484 This approach was deleted on the final Committee vote.

485 The child support guidelines as promulgated in the Pennsylvania Rules of civil Procedure, mandated under 45 CFR 302.56 and 42 USC 667 (a), as a basis for approval of the “state plan” for Federal financial participation, continues to lack any provision for dealing with the allocation of support for a subsequent (new) child when dealing with two established single custodial families, classifying and protecting these families (children) differently, though similarly situated if not the same, with no basis or purpose for that omission to an important government objective, continuing to deny Plaintiffs, and others similarly situated, of “Due Process of the Law” and the “Equal Protection of the Laws” as guaranteed by the Fourteenth Amendment.

486 The Commonwealth of Pennsylvania is an Income Shares State. P.A.R.C.P. 1910.16-1: “The child support guidelines are based on the Income Shares Model developed by the Child Support Guidelines Project of the National Center for State Courts.”

487 Recommendation 48, was written by the Committee with the help of Robert G. Williams, Ph.D.

488 Robert G. Williams is a member of the U.S. Office of Child Support Enforcement, Advisory Panel on Child Support Guidelines, which set “Eight General Principles for Development of a State’s Child Support Guidelines”, in a manual published under Federal grant to the National Center for State Courts for use by State Child Support Commissions and “Legislative bodies ”. United States Department of Health and Human Services, Office of Child Support Enforcement.

489 These principles are pertinent to Plaintiffs’ case insofar as the Defendants blatantly violate 50% of said principles when determining child support amounts in Plaintiffs’ case.

490 Number One: “Both parents share legal responsibility for supporting their children. The economic responsibility should be divided in proportion to their **“available”** income.”

491 By not recognizing and enforcing contract concerning Plaintiffs’ custodial children, defendants determine income used to support custodial children as “available”.

492 Number Two: “The **“Subsistence needs”** of each parent should be taken into account in setting child support, but in virtually no event should the child support obligation be set at zero.”

493 Defendants abysmally fail to consider subsistence needs of Plaintiff and his custodial children.

494 Number Four: “Each child of a given parent has an equal right to “share in that parent’s income, subject to factors such as age of the child, income of each parent, income of “current spouses”, and the presence of other **“Dependants”.**

495 Defendants refuse to acknowledge the expenses of Dependant Custodial Children, parent is Single and has no income of current spouse and that a subsequent child has the right to share in parents income and standard of living when he is residing with that parent’s family, but other parent has no right to use child to take away income and standard of living from ½ siblings.

496 Number 7: “A guideline should not create extraneous negative effects on the major life decisions of either parent. In

particular, the guideline should avoid creating “economic disincentives for remarriage” or **“labor force participation”.**

497 The Commonwealth guidelines used against Plaintiffs’ denies Plaintiffs the ability to make any major life decisions, other than how much will the Gas Co. accept to maintain Gas service and how many times per week do plaintiffs have to wear the same jeans. Plaintiffs’ finances are in ruins (bankrupt) and Plaintiff has be held off work due to anxiety attacks, depression and severe emotional stress caused by allegations against Defendants.

498 Proposition 48 would be fair and equitable and Constitutionally “correct” concerning 2 Single Custodial Families having a child together, where the “new” child is both parents (family’s) second family and both families are headed by struggling Single parents who neither could afford to pay support to the other without devastating their first family or litigate custody, including but not limited to the court evaluation fees.

499 Through numerous letters and the submittal, to the Committee, of Plaintiffs’ “Children First” Multi Family Child Support Formula in December of 1997, the “Committee” was very much aware of plaintiffs’ plight, but chose to delete this recommendation, nor offer an alternative, thereby leaving Single Custodial Father and children without the protection of any Rules/laws (lawless) and thereby liable.

500 Inflicting a **“Bill of Attainder”** on this “class” of citizens.

501 Bill of Attainder: “Act of a lawmaking body that deprives a person of property and civil rights because of a sentence of death or outlawry.”

502 Outlawry: “A person outside the protection of the law.”

503 United States v. Brown, 66 S. Ct. 1073 (1946) “Legislative Acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such way as to “inflict punishment” on them without a judicial trial are “Bills of Attainder” prohibited by the Constitution.” Re: Commonwealth v. Scheinert 519 A2d 422 (1986)

504 Thus, knowing of Constitutional Civil Rights violations, having the power and opportunity to stop those violations and neglecting to do so, the Committee “under color of law” conspired with the other defendants to deprive Plaintiffs of their Civil Rights.

505 Pierson v. Ray, 386 U.S. 547 “I agree with the substantive standard announced by the Court today, imposing liability when a public official defendant “knew or should have known” of the constitutionally volatile effect of his actions. This standard would not allow the official who actually knows that he was violating the law to escape liability for his actions, even if he could not reasonably be expected to know what he actually did know. Thus the clever and unusually well-informed violation of constitutional rights will not evade just punishment of his crimes. I, also agree that this standard applies “across the board” to all government officials performing discretionary functions.”

506 Although “exactly” the same, other than “gender” as Single Mother, Single Father and his Custodial children do not receive the same protection from the Defendants.

507 The only way to protect his custodial children from the Defendants and Single Mother, Plaintiff is “forced” to have “ surgical alterations” performed on his physical being (Vasectomy).

508 Single Father can no longer “sire” new children, which effects his Liberty to possible remarriage.

509 Single Mother, on the other hand, is “FREE” to have as many children as she wishes, knowing, because of her **“gender”,** the Defendants will protect her and her children.

510 It is clear, this is a distinct violation of the “**”Equal Protection Clause”** of the Fourteenth Amendment.

511 In the event, such as this case, Single Father decides against a Vasectomy and a subsequent “new” child is born, Single Father and his children are forced onto Welfare and have no Custody rights other than what Single Mother “allows” them.

512 Not only do Foreclosure proceedings start on their home, after paying “child support” for presumed non-custodial son and Daycare (so he can work) for his custodial children, Single Father can no longer supply the basic needs to his minor custodial children (food, clothing, shelter) their family unity is threatened and children are likely to become “wards of the state”.

513 Application of Gault, 87 S. Ct. 1428 (1967), “Neither Fourteenth Amendment nor Bill of Rights is for adults alone.”

514 The formula used to determine obligor’s net income is vague, confusing, and inconsistent, therefore a violation of the **“Due Process Clause”** of the Fourteenth Amendment.

515 On February 10, 1998, Plaintiff had averaged his net income from the previous 6 months, and when he questioned D.R.O. about how she figured his income at $200.00/month higher than what legally it should have been D.R.O. Ms. Vallas replied; “ We have our own formula we use to figure net incomes.”

516 On or about August 1996, an employee at the family division instructed Single Custodial Mother to make **“False Claims”** against Plaintiff in the means of a Protection from abuse order.

517 This false P.F.A. was totally unfounded and illegal and a means to harass Plaintiff and to ensure Single Mother retained custody in any possible subsequent custody action.

518 Defendants obstruct, harass, and attempt to intimidate, pro se litigants by making court processes as difficult as possible, disseminating false information, and using the powers of the court and enforcement program unconstitutionally against that class of litigants.

519 Defendants have tampered with, and changed, official Court transcripts of hearings.

520 This is commonplace at the Allegheny County Family Division, where the end result is custody for less fit mothers and higher Title IV-D incentive payments and higher bank interest embezzled by the Commonwealth.

521 These are the bias attitudes of the Defendants, particularly those of Ms. Liechty and her employees who routinely practice the obstruction of justice, harassment and civil rights violations along with intimidation tactics designed to deter Plaintiffs from demanding justice.

522 Defendants refuse to classify Plaintiffs’ case where Plaintiffs seek support a Title IV-D case, whereas Plaintiff would receive attorney assistance in collecting support, even though Plaintiff is currently receiving assistance under the Commonwealth’s Title IV-A (Welfare) program.

523 Plaintiffs are therefore denied the “equal delivery of services” for all applicants and recipients of public assistance.

524 Title IV-A (Welfare) and Title IV-E (Foster Care) are Federally mandated Title IV-D cases.

525 The case where Plaintiff is the “presumed” non-custodial parent is considered a Title IV-D case and an attorney was assigned by Allegheny County to further violate Plaintiffs family’s civil rights, although there was no Welfare or possibility of mother falling on Welfare.

526 Allegations in the previous paragraphs are a clear violation of the **“Equal Protection Clause”** of the Fourteenth Amendment.

527 Assigning Title IV-D attorney to oppose Plaintiffs when seeking to enforce and protect their Civil Rights violates Plaintiffs rights to **“Due Process of Law”.**

528 Defendants provided a free Title IV-D attorney at proceedings concerning modification of support to recognize Plaintiff’s contract concerning expenses of custodial children. Contrary to the clear duties of a Title IV-D attorney concerning the enforcement of the duty of child support in the any proceeding designed to obtain compliance.

529 This Title IV-D attorney served to harass, intimidate, and obstruct Plaintiffs’ from demanding their constitutional and civil rights.

530 This has caused severe and devastating economic and emotional distress and hardships to Single Father and his children, requiring a Doctors care, including emotional and chemical therapy, threatening the stability of their “family unity”, creating extraneous negative effects on the major life decisions of Single Father and causing disincentives for remarriage and labor force participation.

531 Plaintiffs’ bring this lawsuit to recover “damages” derived from the loss of rights and property and for punitive damages for the almost 40 months of **“Severe Emotional Distress”** and**“Financial Collapse”** the defendants have knowingly and willingly caused Plaintiffs.

532 The actions of the Defendants is the direct cause of Plaintiff, Guy M. Gordon’s disability, held off work since February 25, 1999, which has caused the intensification of Plaintiff, Tiffany L. Gordon’s disability.

533 Samuel C. Pizzolato v. Leander H. Perez Jr., et al, Civ. A. No. 79-3601, US Dist. E. D. LA. At 20, September 4, 1981, “ Since the principle of **“tort”** damages apply to civil rights actions, an award of damages may encompass compensation.”

534 McKeiver v. **Pennsylvania**, 403 U.S. 528 (1971), “Neither man nor **“child”** can be allowed to stand condemned by methods which flout constitutional requirements of “Due Process of Law.”

535 In its efforts to obtain maximum federal funding, concerning Welfare and Child Support Enforcement grants from the Federal Government and to enhance its General fund with “back door” revenues, without raising taxes or public scrutiny, the Commonwealth of Pennsylvania, violates the Constitution of the United States, by delegating its “law making” powers to a Judicial Committee, which, has the Power invested in itself to ignore, discriminate against and classify citizens as only the “ committee” sees fit.

536 The Commonwealth puts Welfare and Support Enforcement **grants** and its profits stated previously, ahead of the rights of its citizens and minor children.

537 This Committee consists of Judges whom then sit on the Bench and rule on the Rules they wrote. Federally mandated rebuttable presumption is therefore eliminated as well as Constitutionally mandated **"Due Process of Law Right"** to a fair and unbiased Court.

538 The Commonwealth, through this "Judicial Committee" does not recognize and discriminates against Single Custodial Fathers and their children by classifying them as differently, than Single Mothers, thereby denying them of their **"Equal Protection"** and **"Due Process of Law"** rights.

539 Defendants have violated Plaintiffs' First Amendment right to the redress of grievances, through obstruction of justice, by intimidation, threats, harassment and relieving Plaintiff of his ability to financially litigate to protect his family's rights.

540 Defendants have violated Plaintiffs First Amendment Right to the free exercise of religion.

541 Defendants, through discrimination in a federally funded program for their own financial benefit, have taken away Plaintiff' s ability to provide for his custodial children living in his home.

542 Plaintiff is no longer able to work, pay Daycare for his custodial children, pay confiscatory child support for presumed non-custodial child, provide a home for custodial children and the minimal subsistence needs of custodial children.

543 First Book of Timothy of the King James Holy Bible, Chapter 5 Verse 8 says: "But if any provide not for his own, and specifically for those of his own house, he hath denied the faith, and is worse than an infidel."

544 INFIDEL, Black's Law Dictionary 6th Edition: "One who does not believe in the existence of god. One who professes no religion that can bind his conscience to speak the truth. One who does not recognize the inspiration or obligation of the Holy Scriptures, or generally recognized features of the Christian religion."

545 Plaintiffs are of the Christian religion and practice its teachings in everyday life.

546 Plaintiff believes in god, recognizes the inspirations and obligations of the Holy Scriptures and does not wish banishment of eternal hell.

547 According to Plaintiffs' religion, Defendants are denying Plaintiff his right to be a honest god fearing Christian.

548 42 USC 2000bb (a), (1): "the framers of the constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment of the Constitution." (2): "laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise."

549 42 USC 2000bb-1, (a): "Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." (c): "A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution."

-V-

BACKGROUND AND HISTORY OF THE CASE

550 Plaintiffs incorporate by reference paragraphs 1-549, as set forth in their entirety herein.

551 This case began on May 4, 1993. Plaintiffs entered into a Settlement Agreement, which was “incorporated but not merged” into Final Decree of Divorce. Parties on the agreement are Plaintiff, Guy M. Gordon and mother of his custodial children, Bonnie L. Gordon and the Commonwealth of Pennsylvania. This agreement settled property distribution claims as well as the custody and future economic welfare of the party’s two minor children; Plaintiffs, Tiffany L. Gordon and Jessica A. Gordon. Agreeing to incorporation without merger, the party’s intentions were for this to be a “binding” and final Contract.

552 On May 20, 1993, the Defendant, Commonwealth of Pennsylvania, became a legal party to said contract, when Hon. Judge Kaplan approved the Settlement Agreement with his signature.

553 In March 1995 Miss Sexton (single mother of 8 yr. Old son) and Plaintiff (single father of 4 and 6 yr. old daughters), by mutual consent conceived their now 4 year old son, Nathaniel M. Gordon.

554 Parties were very much aware of and accepted each other’s status in life and the moral as well as financial and legal obligations each other had to their own custodial children

555 December 3, 1995, parties son Nathaniel was born.

556 December 5, 1995, leaving straight from the hospital, parties decided to again try to blend their two families and their newborn. Miss Sexton and her custodial son again moved in with Plaintiffs.

557 On or about February 12, 1996 parties failed to blend the families and Miss Sexton and her custodial son moved out of Plaintiffs’ home and back into their apartment. Miss Sexton insisted on taking subsequent son.

558 Knowing that witnessing an emotional Domestic Quarrel was not in his custodial children’s best interest, and that they had been through this once already concerning Plaintiff and their biological mother and considering the parties couldn’t cut the baby in half, one party was going to maintain at least temporary custody, Plaintiff reluctantly agreed, presuming being equal families, 50/50 custody would automatically be presumed.

559 Miss Sexton files for child support and Plaintiff, acting pro se due to lack of financial resources, files custody papers given him at the window in room 603 of the Allegheny County Family Division.

560 On April 6, 1996 Plaintiff calls the attorney he used in his divorce to obtain advice concerning upcoming custody hearing and support hearing that day.

561 Attorney is alarmed Plaintiff is going to support hearing without representation and offers to represent Plaintiff with payment due at a later date.

562 Attorney informs Plaintiff he is looking at a support order upwards of $500.00/month.

563 Plaintiff was robbing Peter to pay Paul as it was and couldn't pay that amount and provide for the basic subsistence needs of his custodial children.

564 Plaintiff was very concerned about the financial welfare of his custodial family, so when Miss Sexton offered to accept $350.00/month plus $25.00 toward 3 months of arrears since date of filing, in exchange for Plaintiff not seeking full custody and accepting, at least temporarily, a modest visitation arrangement, and Miss Sexton promising she had applied for subsidized daycare and would drop support amount once received, Plaintiff was forced to agree to protect custodial children and to ensure access and relationship with newborn son.

565 After discovering that Miss Sexton did not tell the truth about applying for subsidized daycare (eliminating the chance for a support modification) and finding no way to make up the $375.00/month needed to provide for Plaintiffs' custodial children, Plaintiff obtained a motion for a new support hearing to state his financial situation concerning the health and economic welfare of his custodial children and family unity.

566 This hearing was set for August 20, 1996.

567 Plaintiff and Miss Sexton wrote a letter to the Court canceling this hearing due to reconciliation.

568 Again, things didn't work out and on August 15, 1996 Plaintiff, through motions, obtains another support hearing scheduled for August 29, 1996.

569 On August 29, 1996 the case was sat down with Domestic Relations Officer Carol Brosky. This being the same D.R.O. we had 6 months earlier in April. This time Miss Brosky determines Plaintiff's net income at $300.00/month higher than 6 months previous. As evidenced by paystubs, Plaintiff had only received a cost of living increase of $27.73/month in those 6 months.

570 Parties were sent to hearing in front of Hearing Officer Jeannie Bingman.

571 Ms. Bingman ignored the paystubs and let the $300.00 income increase stand.

572 Plaintiffs' attorney presented all Plaintiffs' bills and pleaded with the court to allow Plaintiff to be able to financially raise his daughters who were being victimized.

573 Instead, Ms. Bingman used a multi-family formula and stated the current order was "low".

574 Afterwards, Plaintiff's attorney informed Plaintiff of how much it would cost to file exceptions and possibly appeal to the Superior Court.

575 Attorney said that other than snatching the baby and taking off with all 3 of my kids, the only other thing Plaintiff could do is to plead and beg Miss Sexton to either marry or to voluntarily work out something else, because Plaintiff had not the financial resources to litigate or to support his custodial children much longer.

576 On or about December 16, 1996, Plaintiff was able to contact Sophie Paul, esq. of the Domestic Relations Procedural Rules Committee.

577 Mrs. Paul was very compassionate, caring and understanding and told Plaintiff the committee never recognized a situation where a single custodial father is in a position of having to pay child support.

578 Plaintiff informed Mrs. Paul that his position was not voluntary, custody of newborn son is presumed to mother and Plaintiff did not have the financial resources to litigate for custody.

579 Mrs. Paul advised Plaintiff to write a letter explaining Plaintiff's situation and send it to her and she would be sure to put it on the agenda for consideration when the committee meets to recommend changes to the support guideline

580 Plaintiff began a letter campaign with letter dated February 10, 1997 addressed to Sophie Paul of the Committee.

581 In this first letter, which was carbon copied to Court and State Officials, Plaintiff describes his dire situation and details his futile Court efforts. Plaintiff also requests to testify to the Committee. Plaintiff also includes his own recommendations for changes to the guidelines.

582 A second letter, also carbon copied to the same officials, dated February 20, 1997 is a revised copy of the first, including pertinent information Plaintiff forgot to put in his first letter to the Committee.

583 Letters were also sent to the Committee on behalf of Plaintiff by; Audrey J. Jones, Plaintiff's mother; Officer Bud Barker, Ingram Borough Patrolman; Louise Gallocher, a 30 year friend of Plaintiff.

584 Plaintiff received a response letter from Hon. Judge Joan Orie Melvin dated February 28, 1997 explaining to Plaintiff under P.R.C.P. 1910.16-1 and accompanying comment F, there is "no" multiple family formula.

585 Plaintiff received a response letter from Hon. Judge Max Baer, who was the Chairman of the Committee, dated **"February 25, 1997"** requesting Sophie Paul place Plaintiff's letter listing his concerns and recommendations on the agenda when the Committee considers recommendations for changes to the guidelines.

586 On March 7, 1997 Plaintiff wrote another letter to Sophie Paul of the Committee, carbon copied to Court and State Officials, briefly reviewing Plaintiffs' dire situation and questioning why Sophie Paul had on **"February 25, 1997"**, during a telephone conversation, "reversed" her 2 month position and now claims Plaintiffs' situation "is" recognized by the support guidelines.

587 Plaintiff was very concerned as to the date of Sophie Paul's sudden change of position and the date of Committee Chairman, Hon. Judge Max Baer's letter to Plaintiff.

588 Plaintiff received a blind carbon copy of a letter from Pennsylvania State senator, Jack Wagner, to Hon Judge Max Baer, dated March 14, 1997, requesting Judge Baer investigate the obvious dilemma that Plaintiff has been forced to endure. This letter was also carbon copied to all three of "Allegheny County" Commissioners, enclosed with the letters Plaintiff had written about Plaintiff's and his custodial children's situation.

589 Plaintiff received a letter from Sophie Paul, dated April 8, 1997 in which Sophie Paul claims to of told Plaintiff "several" times over the phone that the Rules of Civil Procedure already require the Hearing Officer to consider factors of Plaintiff's case in determining support obligation to a subsequent child and if he or she didn't, Plaintiffs' remedy would be to file exceptions to

the Hearing Officer's recommendations.

590 This was the complete opposite of her position from December 16, 1996 to February 25, 1997 and her position with Judge Kaplan on August 26, 1997.

591 Sophie Paul was well aware that being a "Single Parent" of two minor children and paying daycare, so he can work, for those minor children, and now paying support for "presumed non-custodial son" and being a bus driver, not a lawyer, it is financially impossible for Plaintiff to Appeal, and the "trier of fact" must be the level in which the Court rectifies the wrongs committed against Plaintiffs.

592 This letter from Sophie Paul was carbon copied to Hon. Judge Max Baer and to Marion Gremba, "Commissioner's office".

593 On May 5, 1997, Plaintiff received a response letter from United States Senator Rick Santorum.

594 Senator Santorum had requested the Pennsylvania Bureau of Child Support Enforcement respond to Plaintiff's letters describing his dire situation and wrongs committed against Plaintiffs.

595 Sherry Z. Heller responded to Senator Santorum's request.

596 Ms. Heller states that Plaintiff's chief concern is that the Pennsylvania Child Support Guidelines do not recognize Single Fathers with custody of other minor children.

597 Ms. Heller assures the Senator that under the Pennsylvania guidelines, similarly situated persons are treated similarly and confirms there is not a multiple family formula.

598 Ms. Heller, however, defends the support order set by the Allegheny County Family Division.

599 On May 14, 1997, working Pro Se, Plaintiff filed a 50/50 shared/joint custody complaint for minor "presumed" non-custodial son.

600 After attending the Generation Program (Lighthouse) seminar and intensely negotiating and pleading, on June 9, 1997 Plaintiff entered into a custody agreement allowing Plaintiff custody of non-custodial son of 2 days per week.

601 On July 2, 1997 Plaintiff received a letter from Mr. Daniel Richard of the Pennsylvania Bureau of Child Support Enforcement who was replying to Plaintiff on behalf of Pennsylvania Governor Tom Ridge.

602 This letter is a mere carbon copy of letter Plaintiff received dated May 5, 1997 from Ms. Sherri Heller in which Mr. Richard also condones and supports the treatment of the Plaintiffs by the Allegheny County Family Division.

603 On August 26, 1997 in Motions court, in front of Hon. Judge Kaplan, Plaintiff obtained a hearing scheduled for November 18, 1997, to consider a modification of child support order.

604 Judge Kaplan stated that he personally spoke to Sophie Paul and verified that there are "no Rules of Civil Procedure recognizing 2 Single Custodial Families having a child together and one family being forced to pay support".

605 Judge Kaplan informed Plaintiff that due to Plaintiff's testimony, 5/19/97 and the previous letters written by Plaintiff and

sent to the Committee and others in the position to make change, that the Committee was formulating a formula that would encompass Plaintiffs' case and the Judge continued that Plaintiff should be proud for he not only has helped himself and his children, but also others similarly situated.

606 On October 7, 1997, Plaintiff again wrote a letter to State and Court Official**s**.

607 This letter requests Congressional Hearings to investigate the abuses of Title IV-D funding and the support for Presumed Joint Custody Legislation.

608 On November 17, 1997, Plaintive and Miss Sexton mutually agree on, seek and obtain, through Motion signed by Judge Machen, a continuance to the scheduled November 18, 1997 Child Support modification hearing.

609 Hearing rescheduled for February 10, 1998 to allow counseling of the parties by Bernie Behrend, initiated and paid for by Plaintiff in order to teach parties how to blend their two families together.

610 On December 10, 1997 Plaintiff, assisted by Mr. Richard Rinehart and Mr. John Winterbottom, formulated the "Children First" Multi-Family Child Support Formula.

611 The Children First Formula consists of Rules and examples and supported by 40 Pennsylvania Appellate Court Caselaw.

612 Plaintiff mailed this formula by certified letter to the committee and other Court and State Officials.

613 At a seminar in State College Pennsylvania, concerning child support, in January of 1998, attended by top Court and State Officials, Chairman of the Committee, Hon. Judge Max Baer, spoke of Plaintiff and the Children First Multi-Family Child Support Formula in high regard.

614 On February 10, 1998 Plaintiff and Miss Sexton appeared for support modification hearing.

615 Again the Hearing Officer was Jeannie Bingman.

616 **Neither party had, nor desired, legal representation.**

617 Plaintiff submitted to the Court, on behalf of himself and his three children: Declaration of Judicial Compliance (demanding their rights not be violated, with supporting evidence and caselaw), Letter dated October 7, 1997 to Court and State Officials, and Plaintiffs' Children First Multi-Family Child support Formula.

618 Plaintiff again submitted bills incurred in raising custodial children, evidencing the current child support order was financially destroying Plaintiff's family and threatening their family unity and the need for modification to allow Plaintiff to provide for his Custodial children as well as his presumed non-custodial son.

619 Plaintiff argued the formula used at the last hearing did not fit this particular case, there are no rules pertaining to the case, Title IV-D classifications, both parties accepting the costs of the others custodial children when they consented to the conception of their son, why the courts would presume full custody to one Single family and not the other, Judge Baer writing laws/rules and sitting on the bench ruling on the rules he wrote, Judge Baer being her boss and Plaintiff can not get a fair hearing, and due to attorney's oath of allegiance to the bar, which is controlled by the Supreme Court, of which Judge Baer is a Chairman of one

of their most controversial committees and that attorneys would have to stand before Judge Baer in other cases long after I'm gone, no attorney in their right mind would attack Judge Baer's rules in representing Plaintiff.

620 Miss Sexton's argument is that she is co-operating by graciously "allowing" Plaintiff and his Custodial daughters more time with Nathan and the guidelines states she is entitled to more support, regardless of Plaintiffs' financial ruins.

621 Ms. Bingman took the case under advisement and on February 12, 1998 mailed her recommendations to the parties.

622 Ms. Bingman again denied Plaintiff's petition for modification, stating the current order was low, under the multi-family formula, which according to Judge Melvin didn't exist, otherwise known as Rule 1910.16-5 (n) which Sophie Paul and Judge Kaplan had stated didn't fit this case.

623 Plaintiff, working Pro Se, filed Exceptions.

624 Plaintiff receives letter dated February 17, 1998 from Sherri Heller, responding on behalf of Pennsylvania Governor Tom Ridge concerning the Children First Multi-Family Child Support Formula, whereas Ms. Heller suggests sending the formula to Sophie Paul and the Committee.

625 In March (?) of 1998 Plaintiff receives very detailed letter from Sherri Heller describing the Rules change recommendations the Bureau of Child Support Enforcement were submitting to the Committee.

626 In April (?) of 1998 Plaintiff receives packet containing forms for a "Title IV-D" access and visitation grant from Sherri Heller, which Plaintiff had never requested.

627 On April 13, 1998 working Pro Se, Plaintiff files "Brief" supporting Exceptions.

628 On April 21, 1998 Plaintiff receives letter from the "Allegheny County Law Department" that they will be "representing" Miss Sexton at the upcoming Exceptions hearing scheduled for May 8, 1998.

629 Miss Sexton **"never requested this representation"** and is not receiving benefits under the Commonwealth's Title IV-A program.

630 Feeling intimidated by the involvement of Allegheny County, Plaintiff is frantic to find legal help to protect his family unity and his and his children's civil rights.

631 Plaintiff files a complaint with Pennsylvania Attorney General, Mike Fisher's office and receives a letter in response on April 29, 1998 from Special Investigator Kimberly A. Shaffer stating the Office will review Plaintiff's complaint to see if it warrants involvement.

632 Plaintiff was able to retain attorney Martha Howarth to represent him at Exceptions Hearing.

633 On May 8, 1998 in the hallway before the scheduled hearing, attorney Howarth stated that she had read my brief and she would not argue most of the exceptions (attorney suicide).

634 Miss Sexton's personal attorney was also present and he too would argue against Plaintiff, along with the Allegheny County

attorney.

635 Attorney Howarth advised Plaintiff to drop exceptions for the other attorneys were “circling the wagons” and were intent to make Plaintiff look like a complete fool and seek the maximum dollar amount of support legally possible, regardless of what may happen to Plaintiff’s custodial children.

636 Feeling outnumbered, intimidated, all alone, and only concerned about how the outcome would effect his children, Plaintiff reluctantly agreed to drop Exceptions.

637 Attorney Howarth also reminded Plaintiff of the Committee’s Multi-Family proposal in Recommendation 48 and how that would help his children immensely and advised not to risk hurting them more so now.

638 One week after pulling his brief, Plaintiff was informed the Committee dropped their proposed multi-family formula, which would protect custodial children.

639 It is Plaintiffs’ position this was in retaliation against Plaintiff.

640 On June 22, 1998 Plaintiff received e-mail from Sophie Paul verifying the proposed Multi-Family Formula had been dropped by the Committee.

641 August of 1998 Plaintiff petitioned for a Court Mediation session concerning modifying Custody order to an equal 50/50 joint custody.

642 On August 31, 1998 Plaintiff and Miss Sexton sat down with Mediator John Mendicino.

643 Plaintiff and Miss Sexton were very close to agreement before mediation, but were miles apart after mediation due to Mr. Mendicino’s bias attitudes, and intimidating remarks:

644 Mr. Mendicino also gave Plaintiff false information concerning the Praecipe for conciliation, in which he stated that if after 2 weeks parties do not contact him the case would automatically go for conciliation.

645 This was meant to further discourage and suppress Plaintiff.

646 On November 16, 1998, Plaintiff visits the Generations Program to personally find out when the conciliation hearing would be.

647 Plaintiff discovered none were scheduled and filed a Praecipe at that time, scheduled for February 1, 1999.

648 A Compliance hearing was scheduled on January 21, 1999 for the non-custodial mother of Plaintiff’s custodial children.

649 Plaintiff need not appear, but chose to do so to ask the Court personally if the Settlement agreement between non-custodial mother, Plaintiff and the Court is a contract? Hearing Officer said “yes”

650 Plaintiff asks, is the Court/State a party to this contract? Again “yes”!

651 When getting the transcripts to that hearing, it is clear, to “both” parties in attendance, the testimony had been either

changed or omitted.

652 Custody conciliation hearing on February 1, 1999 took only 5 minutes to conclude.

653 Miss Sexton still had the John Mendicino attitude and Plaintiff still claimed mother's demands were unfair to his custodial children.

654 Ms. Dodasovich acted infuriated and amazed that Plaintiff wouldn't bow to the mother's demands and he instead demanded equality of the families regarding all concerns.

655 Immediately Plaintiff was ordered to "solely" pay for Psychological and Home Evaluations.

656 Plaintiff claimed that due to expenses of custodial children and the high payment of support to mother, Plaintiff could not pay for these evaluations.

657 Plaintiff produced evaluations when he was awarded custody of his custodial children and testimonials from professionals who have been involved with the family.

658 Furthermore, it is not fair to take money away from Plaintiff's custodial children and not those of Mother.

659 Ms. Dodasovich didn't care about anything other than, if Plaintiff wants a custody hearing, Plaintiff will pay, otherwise take it up with a Motions Judge.

660 On February 25, 1999 Plaintiff was held off work (still off work as of today) for Panic and Anxiety attacks, Depression, stress, racing thoughts, loss of weight and appetite and sleep disorder.

661 On July 20, 1999, parties enter into a Joint Custody agreement and in conjunction with that agreement a modified order of child support.

662 Plaintiff filed Custody agreement with the Prothonatary's office, but Family Division refused to process the support agreement, even though the Judge specifically wrote "please process" because they claimed it lacked information needed for the computer. Plaintiff was told what information was needed and that an addendum signed by both parties would suffice.

663 Plaintiff drew up the addendum with the appropriate information, had it signed by both parties and intended to file it on August 6, 1999 when he would be in Court concerning compliance on his other case.

664 On August 6, 1999, Plaintiff and non-custodial mother consent to a $100.00/month support agreement to Plaintiff from non-custodial mother.

665 This order was signed by both parties and Judge Baldwin and at 9:30am. Plaintiff proceeded to room 603 of the Family Division to file the Court Orders, both signed by all concerned parties and a Judge.

666 The person in the window told Plaintiff the Court does not process Court Orders on Fridays because there are no D.R.O.'s there that day to process them.

667 In front of Defendants two minor children, this person rudely closed the window when Plaintiff tried to ask why the Judges

would sign orders on a day you can't file their orders.

668 From being at Family Court a lot, Plaintiff recognized at least 3 D.R.O.s that he had personally sat before.

669 On August 16, 1999, Plaintiff sends by certified mail, the two signed support Court Orders to Administrative Judge Mulligan, enlightening her to Plaintiffs' recent experience and asking if she could have these orders processed.

670 Plaintiff also asks why he was never given a Title IV-D attorney to help him collect support.

671 Plaintiff received a response letter from Linda Liechty, Court Administrator, on behalf of Judge Mulligan.

672 Miss Liechty returns both Court Orders.

673 Ms. Liechty condones and supports actions of Court employee and states that orders can not be processed on Fridays.

674 Ms. Liechty also falsely states that Title IV-D attorneys are never automatically provided in any local case.

675 This is very much in contrast with the letter dated April 21, 1998 from the County Law Department, which provided an attorney, without request, to intimidate and suppress Plaintiffs' rights.

676 On August 24, 1999, Plaintiff sends, by certified mail, a letter to Ms. Liechty, trying as professionally and politely as Plaintiff could, to educate Ms. Liechty to the "real" workings of the Court.

677 Plaintiff again questions the entitlement to Title IV-D attorneys and asks why everytime Plaintiff request an attorney or that his case be a Title IV-D case he gets the run around.

678 Plaintiff also informed Miss Liechty that all the information needed was on those orders and to please do her job and have somebody type them into the computer, because it is a hardship on Plaintiff, due to his disability, to keep going down to Family Court.

679 Miss Liechty wrote back to Plaintiff in a letter dated September 7, 1999, again returning Plaintiffs' Court orders.

680 Miss Liechty informs Plaintiff there is not enough information on the Court Orders and that all three parties needed to appear for screening.

681 On September 15, 1999, Plaintiff took both orders to the Family Division.

682 D.R.O. that day told Plaintiff the Court has available on Friday a few D.R.O.'s to process Orders of Court of that day from Exceptions hearings.

683 She also could not understand why the Court Orders were not Processed when all the information needed was on the orders.

684 The orders were already in the file, they just needed to be typed into the computer.

685 These were copies of original orders that Plaintiff had requested be typed into the computer and Ms. Liechty refused.

686 Ms. Liechty continues to harass, discourage and suppress Plaintiffs' civil rights, by making every move Plaintiff makes in

Family Court as difficult as possible.

687 Ms. Liechty is well aware of Plaintiff's disability and has proceeded to do everything in her power to intensify Plaintiff's condition and force the dissolvent of Plaintiffs' family.

688 It is in all of Plaintiff's children's "Best Interest" Plaintiffs remain in "marital home".

689 Plaintiff, Tiffany L. Gordon, a minor child, has been diagnosed to have a "Learning Disability", has no significant relationship with her mother, and clearly is in need of the stability which Plaintiff's father has more than provided.

690 Plaintiff, Jessica A. Gordon, a minor child, at the age of 1, was diagnosed as asthmatic, although this condition, at least temporarily is in recession, Plaintiff's need for stability is of utmost importance.

691 Plaintiff, Nathaniel M. Gordon, a minor child, has bonded and adjusted to being a part of, not only his father and ½ sibling sisters and family, but also the entire neighborhood in which Plaintiff's live.

692 Plaintiff, Guy M. Gordon, has the support of not only family, which all live in the same community, but also of neighbors and the Community as a whole.

693 Since April 4, 1996 in order to forestall foreclosure proceedings against their home, in order to maintain Utility services to their home, and to provide Food and Clothing for minor children, Plaintiffs have been forced to refinance their home on **July 26,1996, June 3, 1997** and **September 24, 1997.**

694 For the same reasons stated in the previous paragraph, Plaintiffs have needed to take out personal loans through Plaintiff's Credit Union on; **November 27, 1996, February 20, 1997, December 19, 1997**, and **November of 1998.**

695 Foreclosure proceedings against Plaintiffs' home commenced on **April 14, 1998.**

696 On **July 20, 1998** Plaintiffs' application to the Pennsylvania Housing Finance Agency; Homeowners' Emergency Mortgage Assistance Loan Program was approved on a "non-continuing basis".

697 On **March 19, 1999** Foreclosure proceedings again commence against Plaintiffs' home.

698 On **June 30, 1999** Plaintiffs' application to the P.H.F.A., H.E.M.A.P. was again approved, this time on a "continuing basis", through "January 2000".

699 Both times applying for Mortgage Assistance, Plaintiff claimed Discrimination and Biases in the Allegheny County Family Division as the cause for delinquency.

700 Defendants are the direct cause of Plaintiff, Guy M. Gordon's disability, and worsening the condition of Plaintiff, Tiffany L. Gordon.

-VI-

FEDERAL CAUSES OF ACTION

FIRST CAUSE OF ACTION

VIOLATIONS OF THE FIFTH AND FOURTEENTH AMENDMENTS

OF THE UNITED STATES CONSTITUTION

DUE PROCESS OF LAW

AND

EQUAL PROTECTION OF THE LAWS

701 Plaintiffs incorporate by reference paragraphs 1-700, as set forth in their entirety herein.

COUNT 1

(Against Defendants: Commonwealth of Pennsylvania, Governor Ridge, The Committee, Allegheny County, Hon. Mulligan, Liechty, Mendicino, Dodasovich)

702 Defendants violate Plaintiffs' right to "Equal Protection of the Law" by classifying single mother and her custodial children (family) differently than single father and his custodial children (family), though similarly situated if not the same, other than the gender of custodial parent, by presuming custody of subsequent (new) child to single custodial mother's family, thereby unconstitutionally classifying single custodial father's family as the presumed "absent" or "non-custodial" family. Single custodial mother's family is presumed "fit", while single custodial father's family must apply and pay exorbitant Court and evaluation fees (100%) to prove fitness for even the minimal amount of visitation rights. Plaintiff also, has been and continues to be a "mother" figure, though not by "gender". Being a single parent family, these fees are unattainable, thereby denying Plaintiffs' "parental rights" and "equal bonding of siblings", violating Plaintiffs' rights to "Due Process of Law" and "Equal Protection of Law". During court procedures for custody of subsequent child, Defendants primary concerns are of the "wishes" and "demands" of presumed custodial mother, regardless of the "harm" those wishes and demands might have on single father's innocent custodial children. Therefore, denying Plaintiffs minor custodial children of the "Equal Protection of the Law".

COUNT 2

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, The Committee, Richard, Heller, Allegheny County, Hon. Mulligan, Liechty, Bingman)

703 Defendants deprive Plaintiffs of "Due Process of Law" and "Equal Protection of the Law" by classifying single father and

his custodial children as a “second intact family” (family resulting from an intact remarriage of a non-custodial parent), when determining support for presumed subsequent child, when in fact, single father is, and has been, a single custodial father, has no supports of a spouse, pays daycare for his minor custodial children, feeds, clothes and provides a home for his children, receiving no help in the form of child support for those custodial children, and Defendants refuse to provide Title IV-D enforcement services, thereby depriving single custodial father of the ability to provide for the “basic subsistence needs” of his custodial children. Defendants “protect” the standard of living of presumed custodial mother, her custodial child, and subsequent child, and not the standard of living of single father or his custodial children, though similarly situated if not the same. (Equal Protection of the Law). Responsibilities and obligations for a subsequent new child are those of his parents, not his siblings; siblings have a Constitutional right to be protected “equally” under the Fourteenth Amendment. Constitutional violations against Plaintiffs are executed in the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial assistance.

COUNT 3

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty, Bingman)

704 Defendant’s multiple family child support formula is “vague” and “confusing”, whereas, litigants as well as the Court, must guess at its meaning and application, thereby denying Plaintiffs the “Due Process of Law” and the “Equal Protection of the Law” . In December 1996 Sophie Paul (former Esq. of Committee responsible for April 1999 revision of support guidelines) told Plaintiff that there were “no rules of civil procedure” which recognized two single custodial families conceiving a child, whereby one family may be obligated to pay child support, whereby the multiple family formula used does not fit this case; February 28, 1997 Hon. Pa. Superior Court Justice Joan Orie Melvin claims that there is no multiple family formula in the Pa. Rules of civil procedure in contrast to court records which clearly show the use of the multiple family formula. On August 26, 1997 Hon. Judge Kaplan explains to Plaintiffs that he personally spoke to Sophie Paul and Plaintiff is correct in stating there is no rule of civil procedure pertaining to this case and that the “formula” used, pertains to second “intact” families, however the committee was working on a formula that would encompass Plaintiffs’ case and provide “Equal Protection” for his custodial children. This clearly “vague” formula and the damages it has caused Plaintiffs has been retained in the revised guidelines as part of the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 4

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee)

705 Defendants neglect and refuse to promulgate rules or statutes recognizing the “equality of rights” of both “single custodial families”, and provisions for dealing with equitable allocation of child support for a subsequent child conceived of both single custodial families, lacking a basis and purpose to an important state objective for that omission, thereby denying Plaintiffs “Due Process of Law” and the “Equal Protection of the Law” in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 5

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty, Bingman)

706 Defendants neglect and refuse to consider evidence of civil rights violations and harm done to Plaintiff's innocent minor custodial children, as submitted to the Court and in numerous letters to Defendants, disregarding "Due Process of Law" and " Equal Protection of the Law" in administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 6

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Hon. Mulligan, Liechty, Bingman)

707 Special formula used by Defendants to determine "net income" (available income) is arbitrary and conspicuous, whereas the Court and litigants must guess at its determinations, therefore violating Plaintiffs' right to "Due Process of Law". This formula is used in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for federal financial participation.

COUNT 7

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Hon. Mulligan, Liechty)

708 Being a Single Custodial Parent with limited resources, which are morally and contractually obligated to the "custodial" children, as acknowledged and accepted by Defendants, ordered to pay confiscatory and punitive support to a presumed custodial mother for a subsequent child (sibling), based on: a classification which they are not, unconstitutional "income" and " support" formulas, Plaintiffs are unable to financially litigate an appeal (attorney licensed with the Pa. Bar, transcripts, Court fees) and Defendants make available no viable recourse or opportunity for Plaintiffs to defend their rights, violating Plaintiffs' rights to "Due Process of Law" and the "Equal Protection of the Law" in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 8

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty, Bingman)

709 Confiscating and denying the life, liberty, and property of Plaintiff's minor custodial children (also named as Plaintiffs to this action) without a hearing by an impartial jury and competent legal representation on minor children's behalf, denies Plaintiff 's minor custodial children of "Due Process of Law" and "Equal Protection of the Law", in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 9

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Allegheny County, Hon. Mulligan, Liechty)

710 Tampering with legal court transcripts and encouraging the filing of “false” or “juiced up” protection from abuse petitions, denies Plaintiffs of “Due Process of Law” and “Equal Protection of the Law”, in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 10

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Hon. Mulligan, liechty)

711 Executing “punitive” action against Plaintiffs in Defendants “offset program” (intercepting tax refunds) based on “arrears” that are on “appeal” and not yet decided in a court of law, is a violation of Plaintiffs’ ’Due Process of Law” in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 11

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty)

712 Defendants use a “subject class” of citizens of the Commonwealth (those in their child bearing years, who decided to remain in Pennsylvania, who have a “basic living wage job, and who are involved in child support litigation procedures) to protect the funding of its Title IV-A program (welfare) and obtain further Federal funding of its child support enforcement program (Title IV-D), and obtain high Federal incentive payments, of which the Defendants profit $32 million annually, denying this “subject class” the rights to “Due Process of Law” and the “Equal Protection of the Law”, in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 12

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty, Bingman)

713 It is clear, as alleged in this complaint, Defendants have denied Plaintiffs the “Due Process of Law” right to rebut the calculation of child support, as determined by the “statewide guidelines” as mandated under 42 USC 667 (b)(2). Chairman of the “Judicial” committee which writes the guidelines also sits on the “bench” and rules on the rules he wrote. This Honorable Judge was also the “Administrative” Judge of the “Family Division”, thereby in complete control of all procedures of his Court and actions of his subordinates (Hearing Officers and Domestic Relations Officers, which determine a high percentage of all support cases). Passthrough Incentives (bonuses to employees based on yearly $ amount of support ordered, not unlike commissions on

sales) monetarily discourages employees to consider evidence of “ability to pay”, thereby deny Plaintiffs the “Due Process” right to rebut the guideline calculation. This in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 13

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Hon. Mulligan, Liechty)

714 It is clear, as alleged in this complaint, Defendants deny Pro Se litigants “Due Process of Law” and the “Equal protection of the Law” through the “unequal” and “non-accessibility” of the Court and its processes and procedures, as compared to represented litigants, though similarly situated if not the same, and through disseminating “false” and “misleading” information for the sole purpose of harassing and obstructing pro-se litigants, in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Human Services for Federal financial participation.

COUNT 14

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Quinn, Hon. Mulligan, Liechty)

715 Defendants deny Plaintiffs the “Equal Protection of the Law” by classifying Plaintiffs’ case where they are the presumed non-custodial family, thereby obligated to pay support, a Title IV-D case, though no Title IV-A assistance is involved or request for Title IV-D services made, therefore lacking the criteria needed for services as mandated by Congress and the Secretary of the Department of Health and Human Services as promulgated in the Federal regulations, but refusing to classify case where Plaintiffs are the custodial family, thereby owed support, a Title IV-D case, even though Plaintiffs receive assistance under the Commonwealth of Pennsylvania’s Title IV-A program, have on numerous occasions, by letter and in person, requested Title IV-D services. This discrimination against Plaintiffs is part of the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 15

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Quinn, Hon. Mulligan, Liechty)

716 Where Plaintiffs are the presumed non-custodial family, thereby obligated to pay support, Defendants have appointed, without request, a free Title IV-D attorney, which served to intimidate and obstruct Plaintiffs, working pro se, from seeking their rights of “Due Process of Law” and “Equal Protection of the Law” in the administration of the Commonwealth of Pennsylvania’ s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 16

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Quinn, Hon. Mulligan, Liechty)

717 By refusing to classify Plaintiffs' case where they are owed support, a Title IV-D case, as mandated by Congress and the Secretary as promulgated in Federal Regulations, based on Plaintiffs' request for services and receiving financial assistance under the Commonwealth of Pennsylvania's Title IV-A program, denies Plaintiffs the "equal delivery of services" for all applicants and recipients of public assistance, as guaranteed by the "Due Process of Law" and "Equal Protection of the Law" clauses of the Fourteenth Amendment. This discrimination occurs in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 17

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, Allegheny County, Quinn, Hon. Mulligan, Liechty)

718 In the administration of the enforcement procedures, as outlined in the Defendant's "state plan", as approved by the United States Department of Health and Human Services for Federal financial assistance, Defendants, apply enforcement laws and procedures in a discriminatory and unequal manner, specifically singling out Plaintiffs and executing enforcement procedures against Plaintiffs, regardless of evidence presented to the court to the contrary, February 8, 2000) thereby persecuting and harassing Plaintiffs, in order to discourage and deny "Due Process of Law", therefore worsening the harm Plaintiffs have suffered, while enforcement procedures applied against others who are similarly situated, are languid, at best, thereby denying Plaintiffs the protection of "Equal Application of the Law", in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 18

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Quinn, Hon. Mulligan, Liechty, Bingman)

719 Defendants violate Plaintiffs' right to "Equal Protection of the Law" by neglecting and refusing to recognize, honor and enforce a "quasi-contract" or contract "implied in law" between Plaintiff and presumed custodial mother, as entered into before their mutual consent to conceive subsequent child, whereby both parties acknowledged and accepted the other and their individual financial obligations to their established custodial children, including "full expenses" thereof, whereby neither party could "separate siblings" nor use any subsequent child as an "economic weapon" against the party and their established custodial children. Defendants, by presumption, acknowledge the financial obligation for established custodial child for presumed custodial mother, but neglect and refuse to acknowledge the full expenses of established custodial children living with presumed non-custodial father of subsequent child. Defendants "protect" the standard of living of presumed single mother and her family (allowing and encouraging her to have as many children as she wishes) by relieving her of responsibility to her custodial children of the adverse effects of her getting pregnant, onto single father's minor custodial children To guarantee the same protection for his custodial children from a non-biological mother and a biased and revenue hungry court, Plaintiff must

have surgical alterations performed on his physical being (vasectomy), where mother is protected by the Defendants and does not. This surgical alteration to Plaintiff's physical being detrimentally effects his Liberty to remarriage and possibly sire children to that marriage. This discrimination is a part of the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

SECOND CAUSE OF ACTION

VIOLATION OF THE FIRST AMENDMENT

OF THE UNITED STATES CONSTITUTION

FREEDOM OF SPEECH

FREEDOM OF RELIGION

COUNT 1

(Against all Defendants)

720 It is clear, as stipulated in this complaint, the damages against Plaintiffs as caused by Defendants, has, by and through Plaintiffs' religious beliefs, denied Plaintiffs the guaranteed right to the "free exercise" of their religion, in the administration of the Commonwealth of Pennsylvania's "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation. Though the actions, laws, and rules, as challenged in this complaint appear on their face to be neutral towards religion, Plaintiffs' religious beliefs have suffered immensely, whereby Plaintiff believes in his heart, should he pass-on today, he would not be accepted into heaven, but would suffer in hell. Therefore, Plaintiff brings this action to defend his religious beliefs, as substantially burdened by the Defendants, with no compelling government interest, under Title 42 USC 2000bb and 2000bb-1, asserting Plaintiffs' claim under the general rules of standing under Article III of the U.S. Constitution. Defendants religious burdens on Plaintiffs occur in the administration of the Commonwealth of Pennsylvania' s Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 2

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty)

721 By denying Plaintiffs the right to testify about the causes and effects and harm and damages, that government policy has forced Plaintiffs to endure, and denying Plaintiffs the right to record such governmental policy making committee meetings, and to record actual support hearings, to guarantee the accuracy of court transcripts and "Due Process of Law", when Plaintiffs

cannot afford such high costs of court transcripts as needed for appeal, denies Plaintiffs the right to “Freedom of Expression” as guaranteed under the freedom of speech clause of the First Amendment, in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

THIRD CAUSE OF ACTION

VIOLATION OF THE SIXTH AMENDMENT

OF THE UNITED STATES CONSTITUTION

IMPARTIAL JURY

LEGAL COUNSEL FOR DEFENSE

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Hon. Mulligan, Liechty)

COUNT 1

722 In violation of Separation of Powers Doctrine, as contained in the Constitution, Judges sit on Supreme Court Committee writing “rules”, then sit on the bench and rule on the same rules they themselves wrote. Some of these Judges are also “ Administrative Judges”, whereby all employees, Hearing Officers and Domestic Relation Officers, are under their strict scrutiny and control, thereby denying Plaintiffs of their right to a hearing before an “impartial jury” (judge), in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 2

723 These same judges being members of the “Supreme Court” committee, whereby the Supreme Court controls the Pennsylvania Bar, which attorneys must be a member to practice law in Pennsylvania, and also controls the Disciplinary Review Board, which can disbar attorneys for violating their “oath of allegiance” to the Court. These same Judges must sign an “order of court” admitting an attorney to practice law in their court. Attorneys are hesitant and/or do not argue against “rules” these Judges wrote, in their courts, thereby denying Plaintiffs the guaranteed right to “effective legal counsel for their defense” in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 3

724 Defendants deprive and deny, Plaintiff’s minor custodial children a hearing before an impartial jury (judge) with effective

counsel for their defense, before taking away their way of life, liberty, property and happiness, in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human services for Federal financial participation.

FOURTH CAUSE OF ACTION

VIOLATION OF THE THIRTEENTH AMENDMENT

OF THE UNITED STATES CONSTITUTION

(SLAVERY ABOLISHED)

(AGAINST ALL DEFENDANTS)

725 Through the presumption of custody of subsequent sibling to presumed custodial mother, the use of vague rules/laws to determine support of subsequent child, omission of this class from its rules/laws, Breach of Contract, denial of hearing before impartial jury with effective counsel for their defense, Plaintiff's minor custodial children are presumed slaves to a presumed custodial mother of subsequent sibling, to whom they have no biological or financial obligation, but whom through presumption by Defendants, controls Plaintiff's minor custodial children's life, fortune and liberty, in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

FIFTH CAUSE OF ACTION

VIOLATION OF ARTICLE 1 SECTIONS NINE AND TEN

OF THE UNITED STATES CONSTITUTION

COUNT 1

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, The Committee,)

726 Actions of Defendants violated Plaintiff's minor custodial children's (so named as Plaintiffs) "Due Process" and "Equal Protection" rights and is a "Bill of Attainder" (Bill of Pains and Punishments) in violation of Article 1 Sections 9 and 10 of the U.S. Constitution. Plaintiffs are subjected to unconstitutional punishment without a judicial hearing/trial. Plaintiffs have been told they have no remedy by the government agency (committee), or entity depriving them of rights and have to seek remedy elsewhere, for which there is no other, after the fact. These unlawful actions by Defendants unlawfully caused Plaintiffs to become outlaws (without the protection of law). The actions of Defendants creating the "Bill of Attainder" against Plaintiffs is in further violation of 42 USC 1983 and 1985 and a violation of Plaintiffs' rights under the "Bill of Rights" (which is not for

adults alone under the application of Gault), specifically the First, Fifth and Fourteenth amendments and article 1 sections 9 and 10 of the U.S. Constitution. The actions of Defendants have caused Plaintiffs (minor custodial children) to suffer physically, emotionally and psychically. These actions by Defendants are by and through the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

COUNT 2

(Against Defendants: Shalala, Ross, Donovan, Devine, Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller, The Committee, Allegheny County, Quinn, Hon. Mulligan, Liechty, Bingman)

727 On May 20, 1993 the Allegheny County Court of Common Pleas "Family Division" and the Commonwealth of Pennsylvania, entered into a binding and non-modifiable contract with Plaintiff, concerning the future of the physical, emotional and financial, Health and Welfare of Plaintiff's minor custodial children, which made Plaintiff responsible and obligated to ensure minor children were cared for and would not become "wards of the state", whereas Defendants only obligation is to enforce Plaintiff to uphold his obligations to his minor custodial children, which he by contract accepted. Defendants continuously "BREACH" said contract, by neglecting and refusing to acknowledge and enforce, when considering Plaintiffs' ability to pay support for his presumed non-custodial subsequent child. By neglecting to enforce said contract, Defendants deprive Plaintiff the ability to uphold his obligation to said contract, thereby forced by Defendants to Breach, therefore, threatening the stability of Plaintiffs' custodial "family unity", whereby Plaintiff's custodial children become "Wards of the State". Defendants use unconstitutional support guidelines (rules), written by an unconstitutional committee to circumvent its " obligation to said contract" in violation of the United States Constitution Article 1 Section 10. This "Breach of Contract" and Constitutional violation occurs in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

SIXTH CAUSE OF ACTION

VIOLATIONS OF UNITED STATES CRIMINAL CODE

TITLE 18 SECTIONS 1001 AND 1002

(FALSE DOCUMENTS FOR FEDERAL FINANCIAL ASSISTANCE)

COUNT 1

(Against Defendants: Shalala, Ross, Donovan, Devine)

728 Defendants cover up and make use of false, fictitious and fraudulent document "state plan" as submitted by the Commonwealth of Pennsylvania and/or its officials and entities of state, and knowingly and willingly approves said document for Federal financial participation, even though said document does not comply with relevant Federal statutes and Regulations,

which is required for approval of Federal financial participation, and with full knowledge of all alleged Constitutional violations as contained in this sworn affidavit and complaint, in direct violation of 18 USC 1001.

COUNT 2

(Against Defendants: Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller)

729 Defendants knowingly and with intent to defraud the United States, specifically the Department of Health and Human Services, submit a false and fictitious document “state plan” for the purpose of enabling the Commonwealth of Pennsylvania and its political subdivisions to obtain from the United States, specifically the Department of Health and human Services, sums of money in the form of Federal financial participation and Incentive payments, a clear violation of 18 USC 1002. Defendants are fully aware of Constitutional violations as contained within said “state plan” , and its non-compliance of relevant Federal statutes and Regulations which is required for approval of Federal financial participation. Defendants reporting of its performance of child support enforcement program (Title IV-D), which determines Federal financial participation in Defendant’ s Welfare (Title IV-A) program and enforcement program, is fictitious and false. Performance is based on a ratio of the Dollar amount of “collections” to the Dollar amount of “expenditures”. Defendant’s collection amount is derived from unconstitutional guidelines, procedures and processes, all of which is designed to collect (court order) the highest dollar amount, through conspiracy of Defendants of this action, where the end (federal financial assistance) justifies the means (constitutional and civil rights violations against adults and children). The expenditure amount used in this ratio is fraudulently decreased by embezzling “interest” money earned from collections that are paid (collections and interest earned therefrom, are monies of innocent children of Pennsylvania) and converting it against expenditures, thereby lowering expenditures and reporting a higher dollar amount of collections to every dollar of expenditures and increasing the enforcement program performance, thereby increasing Federal financial assistance to Defendants.

SEVENTH CAUSE OF ACTION

VIOLATIONS OF UNITED STATES CRIMINAL CODE

TITLE 18 SECTIONS 641, 648, 666

(EMBEZZLEMENT)

COUNT 1

(Against Defendant Shalala)

730 Defendant promulgates regulations encouraging the states, as part of their “state plan”, to embezzle monies earned from the “Interest” payable from collections, to offset expenditures of the state’s Title IV-D program. Defendant is charged by an “Act of Congress” to promulgate rules for the safe-keeping of collections and Interest therefrom. Defendant knowingly promulgates the “conversion” of said interest money as an added incentive to the states, to replace the Title IV-A (Welfare) program, with Title IV-D (child support enforcement program), resulting in an all out attack on the Constitution and individual rights v. state

interest.

COUNT 2

(Against Defendants: Commonwealth of Pennsylvania, Governor Ridge, Richard, Heller)

731 Federal financial participation in Defendant's child support enforcement program "state plan" under Title IV-D of the Social Security Act, is based upon the performance of Defendant's enforcement program, determined by a ratio of dollar amount of (court order) collections to the dollar amount of expenditures. Defendants "embezzle" interest earned from (paid) collections (First Union National Bank) converting this interest against expenditures, thereby lowering expenditures and increasing the ratio of collections to expenditures, thereby increasing the amount of Federal financial participation in Defendant's enforcement program as well as Incentive payments, and protecting the Federal financial participation in Defendant's Title IV-A program, in clear violation of Federal criminal codes 18 USC 641, 648, and 18 USC 666. Support collections and interest earned therefrom, are monies of minor children and/or their custodial families, as clearly intended by Congress in 42 USC 664 (a)(2)(A) and 42 USC 657 (a), who are under no obligation to the Defendants. The only exception being support obligations assigned to the state under 45 CFR 232.11 and 471 (a)(1) of the Act. Pursuant to 42 USC 659 (a) and (b), and 42 654b (a)(3), Defendants are charged by Act of Congress with the safekeeping of this interest money, but choose to embezzle and convert this money in order to obtain higher Federal financial participation. Defendant has created a new and unconstitutional source of revenue (taxation without representation) by stealing from and using, the innocent minor children of the Commonwealth as pawns to obtain, or retain Federal funding. The theft and embezzlement of Plaintiff's and his children's "interest" money is perpetrated in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

EIGHTH CAUSE OF ACTION

DISCRIMINATION, DENIAL OF BENEFITS

IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS

(42 USC 2000d)

(Against All Defendants)

732 As alleged in this complaint, it is clear, Plaintiffs have been and continue to be discriminated against, including but not limited to, First, Sixth, Ninth, Tenth, Thirteenth and Fourteenth Amendments of the U.S. Constitution, as well as numerous violations of Federal statutes, and denied services, in the Commonwealth of Pennsylvania's Title IV-D program, "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation, and hereby bring this action for compensatory, exemplary, and punitive damages, pursuant to 42 USC 2000d-7.

NINTH CAUSE OF ACTION

VIOLATION OF CIVIL RIGHTS

(42 USC 1983)

(18 USC 242)

(Against All Defendants)

733 The actions and conduct of the Defendants "under color of state and federal law" described in this complaint constitutes violations of Plaintiffs' constitutional guarantees by abridging their privileges and rights under the provisions of Article I Sections 8, 9, 10; and Article VI; and of the First, Fourth, Fifth, Ninth, Tenth, Thirteenth and Fourteenth Amendments to the United States Constitution. The Defendants "under color of law" deprived the Plaintiffs "Due Process of Law", denied Plaintiffs of the "Equal Protection of the Law", the right to a hearing before losing "life, liberty or property", the right to an impartial jury, the right to "effective" counsel, the substantive and procedural right to "Equal Access to the Court" and its processes, and others under Federal law. These denials of Plaintiffs' civil rights are actionable under 42 USC 1983 for damages. Plaintiffs' claim also shows Defendants violated Federal criminal law 18 USC 242. Defendants so violated Plaintiffs' constitutionally protected civil rights in the administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

TENTH CAUSE OF ACTION

CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

(42 USC 1985)

(18 USC 241)

(Against All Defendants)

734 It is clear, as alleged in this complaint, the individual Defendants so named, act in conspiracy with the Commonwealth of Pennsylvania and its political sub-divisions, to deny Plaintiffs and others similarly situated, their civil rights, including but not limited to, "Due Process of Law" and the "Equal Protection of the Law" and immunities and privileges so guaranteed by the United States Constitution, in obtaining their mutually beneficial goal of obtaining and/or retaining Federal financial participation in the Commonwealth's; Title IV-D program (child support enforcement under the "state plan"), Title IV-A

program (Welfare i.e. Temporary Aid To Needy Families), and Incentive payments, which ultimately “profits” the Commonwealth of Pennsylvania $32 million annually, which can be spent by the Commonwealth in any way it seems fit. Plaintiffs’ claim also shows Defendants violated Federal criminal law, 18 USC 241. Defendants so conspired to violate Plaintiffs ’ constitutionally protected civil rights in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human services for Federal financial participation.

ELEVENTH CAUSE OF ACTION

ACTION FOR NEGLECT TO PREVENT

(42 USC 1986)

(Against All Defendants)

735 It is clear, as alleged in this complaint, Defendants had full knowledge of the wrongs and civil rights violations conspired against Plaintiffs, were in the position and had the opportunity to prevent said wrongs and civil rights violations, but knowingly and willingly neglected and refused so to do. Defendants neglected to prevent violations of Plaintiffs’ civil rights in the administration of the Commonwealth of Pennsylvania’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

TWELFTH CAUSE OF ACTION

NINTH AMENDMENT

(Against All Defendants)

736 It is clear, as alleged in this complaint, Defendants violate and deny Plaintiffs of their established constitutional rights, in order to enforce and protect the newly established rights of another, in the administration of the Commonwealth of Pennsylvania ’s Title IV-D “state plan” as submitted and subsequently approved by the Department of Health and Human Services for Federal financial participation.

VII

PRAYER FOR RELIEF

Plaintiffs incorporate by reference paragraphs 1-736, as set forth in their entirety herein.

WHEREFORE, the Plaintiffs respectfully pray and demand judgement in their favor and against Defendants for compensatory,

exemplary, and punitive damages as the Court may by law direct, and for such other relief this Court deems just.

Federal District Courts have a right and responsibility to punish Defendants for violating Plaintiffs' Constitutional and civil rights, countless Federal statutes and regulations, depriving Plaintiffs, citizens of the United States, of Life, Liberty and Property, in a Federal financial assisted program, resulting in substantial profit for Defendant and the retention and obtaining Federal financial assistance in Federal programs, causing irreparable injury and damage to innocent minor children.

The Federal Courts must send a message that the Court will not tolerate, but will harshly punish, Defendants who cause damages, as those incurred by Plaintiff and his minor children, in a Federally funded program which Congress intended would help Plaintiffs, not for Defendant's own self serving and for profit interests.

There is no chart to determine the cost to the Plaintiffs of the mental, physical, and emotional damages caused by Defendant's destruction of Plaintiffs' family stability and unit that Plaintiff and his children will suffer over the remaining portion of their lives; There is no chart to determine the costs to Plaintiffs of the damages caused by the Commonwealth of Pennsylvania, through its elected and judicial officials for their failure to enforce and protect the inalienable rights of its citizens; Plaintiff is a 39 year old male and can reasonably be expected to live another 35 years, the damages done to Plaintiff and Plaintiff's children will be present for 35 years, Plaintiff has and will continue to require extensive psychological care to recover from damages; Plaintiff's children can be expected to live another 65 years, the damages to Plaintiff's children will be present in their memory for 65 years.

Plaintiffs further pray and request this Court to: Award Plaintiffs treble damages as required by law, pursuant to outcome of criminal investigation;

Compensate Plaintiff for past discrimination by Defendants on the basis of "gender", sanctions for past discrimination is permissible, Ende v. Board of Regents, 565 F. Supp. 501 (1983);

Award to Plaintiffs, attorneys fees and expert fees as provided in, 42 USC 1988 (b) and (c) and all costs to abide the event of the filing of this action to include all costs to the highest court of jurisdiction, and other costs and further relief as the court may deem just and proper;

Enjoin Defendants from interfering with Plaintiffs' pursuits of filing their Federal actions in this Court, or any other Court of this nation;

Enjoin Defendants, their lawyers, employees, and others otherwise directed in their duties by Defendants, from interfering with witnesses, Plaintiffs' practices, employment status, and family life;

Enjoin Defendants from harassing or communicating with Plaintiffs' friends, employers and relatives;

Plaintiffs pray and request this Honorable Court allow Plaintiffs 30 days time, to respond to all motions filed by Defendants, Thirty- day time limit to commence from the verified receipt of motion, not date of filing, Plaintiffs make this request to protect their Due Process rights from Defendants attempts to inundate Plaintiffs with motions, with full knowledge of Plaintiffs limited legal knowledge, Plaintiff's disability, preventing Plaintiff from prolonged periods of concentration, and the fact that Plaintiff's first responsibility is to keeping a home and to the basic needs of his children;

Order the Commonwealth of Pennsylvania convene State Constitutional Conventions, in Pittsburgh and Philadelphia, to hear testimony from all those (custodial and non-custodial parents) who wish to testify about the civil rights violations and harm done to them and their children pursuant to the Commonwealth's Domestic Relations Court Rules and State statutes and enforcement thereof;

Order the Commonwealth of Pennsylvania establish "watch dog" agencies, to have offices easily accessible to individual County "Family Division" Courts, elected by the public during normal elections and that said agency be "independent" of the Court and the state;

Order the Commonwealth of Pennsylvania, by no later than September 1, 2000 to include "interest payable" as a part of, and with all child support checks issued to custodial parents as support for minor custodial children, with the exception of those cases where support collected is obligated to the Commonwealth, Title IV-A and Title IV-E cases;

Order the past interest "embezzled" by the Commonwealth, from the inception of the Regulations, up to and including September 1, 2000, be calculated, including interest, and allotted to a "special fund" to be established by the Commonwealth, whereby cases owing back arrears and custodial parents are struggling to make ends meet, would be paid;

Order future "incentive payments" paid to the Commonwealth by the Federal Government, be allotted to a "special fund" to be established by the Commonwealth, to fund the offices, in and as part of each County "Family Division", of "pro-family" and/or children first advocacy groups, to provide including but not limited to, counseling, custody mediation, and pro-se legal help, these groups to have no affiliation in any way shape or manner with the court or state; AND to help subsidize the astronomical costs of "daycare" for custodial parents;

Declare the Domestic Relations Procedural Rules Committee as unconstitutional under the "separation of powers doctrine" so too its rules of civil procedure as used as "statewide" child support guidelines, and order the Commonwealth of Pennsylvania to, within 12 months, form a Legislative Domestic Relations Committee, and take public testimony above and beyond conventions, to establish new support guidelines for the Commonwealth;

Order the Commonwealth of Pennsylvania call a Constitutional Convention to pass amendments to the Pennsylvania Constitution of 1968, whereby diminishing the power of the Supreme Court of Pennsylvania under Article V Section 10 C, and to pass amendments protecting the child's rights to both parents and to be financially stable while with both parents;

Declare that the Defendants have acted illegally and unconstitutionally in the implementation and administration of the Commonwealth of Pennsylvania's Title IV-D "state plan" in violating Plaintiffs' constitutional rights and liberties and issue an injunction enjoining Defendants from continuing to maintain practices and policies of violations of civil rights, while acting under color of state and Federal law, including but not limited to, equal access to the court, due process and equal protection of the law, unlawful harassment of Plaintiffs, effective counsel before an impartial jury, and Title IV-D services;

Plaintiffs hereby request that this complaint be forwarded to the United States Attorney General, the Civil Rights Commission, and to the Federal Bureau of Investigations, with a "Court order attached" directing an investigation into the conduct of Federal and State officials, in the implementation and administration of the Commonwealth of Pennsylvania's Title IV-D "state plan", and of all conspirators as alleged herein and otherwise, and thereafter prosecute for criminal action, or convene the Federal Grand Jury.

That the Court grant a nine month extension of time for discovery following the investigation by the United States Attorney General, the Federal Bureau of Investigation or any other law enforcement agency and any probable cause hearing prior to jury selection, that upon completion of any Probable Cause Hearing that warrants be issued for the arrest of any Defendant found to have committed a criminal act or misdemeanor or any other act of misconduct;

Plaintiffs move this Honorable Court to enjoin the Secretary of the Department of Health and Human Services to conduct, on an expedited basis, a formal hearing to determine Pennsylvania's compliance with all the regulations within 45 CFR Chapter III and all relevant Federal statutes to which states which qualify for grants of Federal financial participation certify their compliance, to determine the termination of or refusal to continue Federal financial assistance of the Commonwealth's Title IV-D "state plan", so as to permit remedial action by the Commonwealth's Title IV-D agency (Bureau of Child Support Enforcement) and the Commonwealth of Pennsylvania's state legislature to bring Pennsylvania's Title IV-D "state plan" into compliance with Federal Regulations and relevant Federal statutes, AND direct that all exchanges between the Secretary (and her representatives) and Pennsylvania (and its representatives) in respect to the results of said expedited hearing be filed as they are issued with this Honorable Court with copies to Plaintiff, AND if review by this Court does not show Pennsylvania to be in full compliance with the Secretary's Regulations contained in 45 CFR Chapter III before September 1, 2000, Plaintiff urges this Honorable Court to adopt the Secretary's own sequestration approach to non-compliant states by enjoining the Secretary pursuant to 42 USC 2000d-1 as follows: Effective with the current calendar quarter, the Secretary of the Department of Health and Human Services is enjoined from awarding, granting, or disbursing funds to the Commonwealth of Pennsylvania under 45 CFR 301 and under Title IV-A "Welfare Block Grants" until the Commonwealth of Pennsylvania submits and the Secretary approves a "state plan" and submits to this Court for review such "state plan" and any other submissions by the Commonwealth of Pennsylvania which truthfully and accurately reports full compliance with 45 CFR Chapter III and relevant Federal statutes;

Plaintiff, Guy M. Gordon, for himself and on behalf of his minor children, so named as Plaintiffs to this action, prays and respectfully petitions this Honorable Court to grant to them, temporary relief pursuant to Rule 65 (b) F.R.C.P. in restraining the Defendant, Commonwealth of Pennsylvania, by and through the Pennsylvania Housing Finance Agency, or others, from discontinuing its financial assistance to Plaintiffs, through the Homeowners Emergency Mortgage Assistance Loan Program, in order to protect minor children's home, family unity and protect Plaintiff's minor children from further and irreparable injury, loss, and debilitating damages caused by Defendant's actions, processes and procedures, denying Plaintiff and his minor children of "Due Process of Law" and the "Equal Protection of the Law", resulting in Plaintiff's financial collapse and current disability and inability for employment and the very basis for this action. Pursuant to Rule 65 (c), Plaintiff gives as security, his house or lien thereon, and repayment at 9 % interest under the rules and guidelines of the H.E.M.A.P. program. Plaintiffs will and do hereby give notice of application for a preliminary injunction against Defendant, Commonwealth of Pennsylvania, and Plaintiffs pray it be granted in favor of Plaintiffs until the final determination of this action, or until the financial stability of Plaintiffs substantially changes, thereby relieving Plaintiffs of the threat of homelessness. Defendants would have an unfair and substantial "legal advantage" over Plaintiffs, should Plaintiffs be forced into litigation to save their home and "family unity", and/or become homeless, combined with the "severe emotional distress" and irreparable injury caused by the dissolution of their family, especially to Plaintiff's 9 and 11 year old custodial daughters, who have lived in their home all their lives and raised solely by Plaintiff father for 7 years, because Defendants refuse to recognize a situation like theirs in determining support for their sibling brother, who also lives there 3 days/week, and denies them of their life, liberty and property, without a hearing before an impartial judge, represented by effective counsel, thereby denying Plaintiff and his custodial children "Due Process of Law" and the "Equal Protection of the Law";

PLAINTIFFS DEMAND FULLY INFORMED JURY TRIAL

Respectfully submitted,

,

Guy M. Gordon, Pro Se

112 Schley Ave.

Pittsburgh, Pa. 15205-2120

(412) 920-0653

In accordance to Federal Rules of Civil Procedure, Rule 5, this document has been sent to all named parties.

Cross References:

emailed by (1)

pvl79: UNITED STATES_DISTRICT COURT – Civil Tort_Action against the County… justice served again